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OKLAHOMA SCHOOL CODE

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APPENDIX A: APPROPRIATION BILLS RELATING TO EDUCATION

SENATE BILL NO. 206. . . . . A-1

APPENDIX B:

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Section 1. Oklahoma School Code.

This act shall be known as the Oklahoma School Code. **(70-1-101)**

Section 2. Purpose of Act.

The purpose of the Oklahoma School Code is to provide for a state system of public school education and for the establishment, organization, operation and support of such state system. **(70-1-102)**

Section 3. Act to be Liberally Construed.

If any section or part of the Oklahoma School Code is found to be ambiguous or otherwise subject to more than one interpretation, such section shall be liberally construed to the extent that the general purpose of the entire Code and of public education may be advanced. **(70-1-103)**

Section 4. Act Not to Repeal or Modify Tax Laws Unless Specifically Provided.

Nothing in the Oklahoma School Code shall be interpreted as repealing or modifying any law in effect in the State of Oklahoma relative to the collection of any taxes unless specifically provided for herein, and all appropriations existing at the time this Code becomes effective shall be subject to all provisions of said appropriations at the time of their enactment and no omission of or reference to any appropriations shall be construed as repealing any such appropriation or part thereof. **(70-1-104)**

Section 5. State Department of Education - Definition - Agencies of State.

A. The State Department of Education is that department of the state government in which the agencies created or authorized by the Constitution and Legislature are placed and charged with the responsibility of determining the policies and directing the administration and supervision of the public school system of the state. These agencies are the State Board of Education, the State Superintendent of Public Instruction and any divisions and positions as may be established by law, by the State Board of Education or by the State Superintendent of Public Instruction.

B. The State Board of Education is that agency in the State Department of Education which shall be the governing board of the public school system of the state.

C. The State Superintendent of Public Instruction is the official provided for in Section 1 of Article VI of the Oklahoma Constitution who shall be the executive officer of the State Board of Education and have control of and direct the State Department of Education. **(70-1-105)**

Note: Amended by HB 2139, Sec. 1 of the 2011 Reg. Sess.

Section 6. Public Schools - Definition - What Included.

The public schools of Oklahoma shall consist of all free schools supported by public taxation and shall include nurseries, kindergartens, elementary, which may include either K-6 or K-8, secondary schools and technology center schools, not to exceed two (2) years of junior college work, night schools, adult and other special classes, vocational and technical instruction and such other school classes and instructions as may be supported by public taxation or otherwise authorized by laws which are now in effect or which may hereafter be enacted. **(70-1-106)**

Section 7. Educational Services - Enumeration.

Either in conjunction with public schools or otherwise under the control and supervision of school agencies and officials provided by law for the control and supervision of public schools, other educational services may include health activities, school lunch programs, audiovisual education, safety education, vocational rehabilitation education of exceptional and handicapped children, playground and physical education activities and such other special services, functions, and activities as may be authorized by law or by regulation of the State Board of Education. **(70-1-107)**

Section 7.1. Technology Defined.

A. Unless otherwise specifically defined, technology is applied knowledge. For educational and governmental purposes, technology shall include but not be limited to information technology, telecommunications technology and implemental technology. Information technology shall include but not be limited to computers, computer hardware, scanners, multimedia materials, facsimile, e-mail, computer software, CD ROM material or other magnetic media, computer simulations, video, the World Wide Web (WWW) or Internet, Listservs, multiuser domains and other technology used in distance learning or distance education. Telecommunications technology shall include but not be limited to local area networks and wide area networks. Implemental technology shall include but not be limited to implements, equipment, instruments or devices that promote the technology education process and are employed in the science or study of the practical, industrial, or mechanical arts or applied sciences.

B. The provisions of subsection A of this section shall apply when related to the expenditure of public funds by educational and governmental entities. **(70-1-107.1)**

Section 8. School District - Definition.

A school district is defined as any area or territory comprising a legal entity, whose primary purpose is that of providing free school education, whose boundary lines are a matter of public record, and the area of which constitutes a complete tax unit. **(70-1-108)**

Section 9. School Year - Length - School for Less Than Full Term.

A. For all public schools in Oklahoma, school shall actually be in session and classroom instruction offered:

1. For not less than one hundred eighty (180) days; or

2. For not less than one thousand eighty (1,080) hours each school year, if a district board of education adopts a school-hours policy and notifies the State Board of Education prior to September 15 of the applicable school year.

B. Not more than thirty (30) hours each school year may be used for attendance of professional meetings and teachers may be paid for a length of term in excess thereof, under conditions hereinafter outlined. Subject to district board of education policy or collective bargaining agreement, additional professional leave days may be granted for individual teachers to attend or participate in professional meetings, staff development training, or National Board certification portfolio development as provided for in Section 6-204.2 of this title. .

C. A school district may authorize parent-teacher conferences to be held during a regular school day. If authorized by the school district, parent-teacher conferences shall be counted as classroom instruction time for no more than six (6) hours per semester, for a total of twelve (12) hours per school year.

D. A school district may maintain school for less than a full school year only when conditions beyond the control of school authorities make the maintenance of the term impossible and the State Board of Education has been apprised and has expressed concurrence in writing.

E. The State Board of Education shall establish criteria for an extended-day schedule for schools subject to paragraph 1 of subsection A of this section. The criteria shall:

1. Prescribe a lengthened school day within limits determined not to be detrimental to quality instruction; and

2. Ensure that the schedule is equivalent in annual hours of instruction to the one-hundred-eighty-day school year specified in paragraph 1 of subsection A of this section; and

3. Be consistent with the provisions of this section and Sections 1-111 and 1-112 of this title, but may result in fewer annual days of instruction.

F. The State Board of Education may authorize school districts to implement an extended-day schedule for instruction pursuant to the criteria developed. The State Board of Education shall require the participating school districts to prepare a report of the impact of the extended-day schedule.

G. Notwithstanding the provisions of subsections E and F of this section, a school district board of education subject to paragraph 1 of subsection A of this section may adopt and implement an extended-day schedule for grades nine through twelve subject to the following requirements:

1. The annual number of hours of instruction shall equal or exceed one thousand eighty (1,080) hours, which is the equivalent of one hundred eighty (180) days of instruction as specified in subsection A of this section for six (6) hours each day as specified in Section 1-111 of this title;

2. The annual number of days of instruction shall equal or exceed one hundred eighty (180) days as specified in subsection A of this section;

3. The schedule adopted shall be consistent with the provisions of Sections 1-111 and 1-112 of this title, except that for not more than one (1) day per week, a school day shall consist of not less than five (5) hours devoted to academic instruction in a regular classroom setting;

4. The district shall hold a public hearing prior to the adoption of an extended-day schedule authorized pursuant to this subsection; and

5. The district shall document the impact on student achievement as determined by the academic performance index score and any other relevant factors that are a result of implementation of an extended-day schedule authorized pursuant to this subsection and provide an annual report to the State Board of Education of the results. If improvement in student achievement cannot be documented in the report, the district board of education shall revoke authorization as provided by this subsection. If the district does not revoke authorization after student achievement is not documented in the report, the State Board of Education may deny accreditation of any school in violation of this subsection.

H. If subject to paragraph 2 of subsection A of this section, a district board of education or designee may elect to close a school during the school day for inclement weather purposes. In such an event, the number of hours incurred in classroom instruction time prior to school closure shall be counted toward the one thousand eighty (1,080) hours per year requirement.

I. Nothing in this section shall be construed to affect the Fair Labor Standards Act status of any school district employee. **(70-1-109)**

Official beginning of school is the day school shall actually be in session and instructions offered. *January 16, 1984 (AG Op. No. 83-253).*

Board of Education designates dates of beginning and end of school year, and specifies days school will actually be in session. *August 4, 1976* (AG Op. No. 76-223).

Section 10. Extended School Year.

A. School districts shall have the option of establishing and offering an extended school year according to the provisions of this section. The Optional Extended School Year Program provided in paragraph 15 of subsection A of Section 109 of this act means those programs which school districts may provide at the district, site or class level. For the purposes of this program, a school year shall consist of either eleven (11) or twelve (12) months in which school is offered in excess of two hundred (200) days of at least six (6) hours each day. The purpose of the program shall be to improve academic achievement of students participating in the extended school year. The program shall be funded by means of the pupil category weight to be determined by the State Board of Education based upon an amount of funding specified in the State Board of Education's annual appropriation and the level of participation.

B. The State Board of Education shall establish criteria for participation in the program which shall include:

1. A competitive application process based upon requests for proposals;

2. A plan for determining measurable results in terms of academic achievement, pupil retention and other indicators of educational success, including the remediation needs of the district's students;

3. Diversified participation by school district size and geographic location and by amount of school district budget. At least one school district in each of the following categories shall be included: General Fund of less than One Million Dollars ($1,000,000.00); General Fund of from One Million Dollars ($1,000,000.00) to Five Million Dollars ($5,000,000.00); General Fund of from Five Million Dollars ($5,000,000.00) to Ten Million Dollars ($10,000,000.00); and General Fund of Ten Million Dollars ($10,000,000.00) or more. Provided, participation in one of the above categories may be disallowed if no district meeting such fund requirements makes application for the program. **(70-1-109.1)**

Section 11. Repealed.

Section 12. School Day - Six Hours - Exceptions.

A. Except as otherwise provided for by law, a school day shall consist of not less than six (6) hours devoted to school activities. A district board of education may elect to extend the length of one (1) or more school days to more than six (6) hours and reduce the number of school days as long as the total amount of classroom instruction time is not less than one thousand eighty (1,080) hours per year as required pursuant to Section 1-109 of this title.

B. A school day for nursery, early childhood education, kindergarten, and alternative education programs shall be as otherwise defined by law or as defined by the State Board of Education. Not more than one (1) school day shall be counted for attendance purposes in any twenty-four-hour period.

C. Students absent from school in which they are regularly enrolled may be considered as being in attendance if the reason for such absence is to participate in scheduled school activities under the direction and supervision of a regular member of the faculty or to participate in an online course approved by the district board of education. The State Board of Education shall adopt rules to provide for the implementation of supplemental online courses which shall include, but not be limited to, provisions addressing the following:

1. Criteria for student admissions eligibility;

2. A student admission process administered through the district of residence, which provides the ability for the student to enroll in individual courses;

3. An electronic student transfer system which does not require the student desiring to transfer to another district for enrollment in an online course to personally appear in the district to which the transfer is sought;

4. A process by which students are not denied the opportunity to enroll in educationally appropriate courses by school districts;

5. Creation of a system which provides ongoing enrollment access for students throughout the school year;

6. A grace period of fifteen (15) calendar days from the first day of an online course for student withdrawal from an online course without academic penalty;

7. Mastery of competencies for course completion rather than Carnegie units;

8. Student participation in extracurricular activities in accordance with school district eligibility rules and policies and any rules and policies of a private organization or association which provides the coordination, supervision, and regulation of the interscholastic activities and contests of schools;

9. Parent authorization for release of state test results to online course providers, on a form developed by the State Department of Education;

10. A review process to identify and certify online course providers and a uniform payment processing system.

D. Each district board of education shall adopt policies and procedures that conform to rules for online courses as adopted by the State Board. Such policies shall include criteria for approval of the course, the appropriateness of the course for a particular student, authorization for full-time students to enroll in online courses, and establishing fees or charges. No district shall be liable for payment of any fees or charges for any online course for a student who has not complied with the district's policies and procedures. School districts shall not deny students the opportunity to enroll in educationally appropriate courses and shall provide an admissions process which includes input from the student, the parent or guardian of the student, and school faculty.

E. Districts shall require students enrolled in online courses to participate in the Oklahoma School Testing Program Act. Students participating in online courses from a remote site will be responsible for providing their own equipment and Internet access, unless the district chooses to provide the equipment. Credit may not be granted for such courses except upon approval of the State Board of Education and the district board of education.

F. The school day for kindergarten may consist of six (6) hours devoted to school activities. **(70-1-111)**

Note: Amended by SB 280, Sec. 1 of the 2011 Reg. Sess. Effective July 1, 2011.

A day devoted to parent-teacher conferences is counted as a school day even though pupils are not in attendance. *August 10, 1983 (AG Op. No. 83-152).*

Section 13. School Taught on Saturday.

School taught on Saturday shall not be counted for attendance purposes in meeting the school year requirements as set forth in Section 1-109 of this title. School taught on Saturday may be substituted for regular school days during which school has been or will be closed upon approval of the State Board of Education. **(70-1-112)**

Section 14. Residence of Child - Attendance in Transportation Area.

A. When used in this section, the residence of any child for school purposes shall be:

1. The school district in which the parents, guardian, or person having legal custody holds legal residence.

Each school district board of education shall adopt a policy establishing the requirements for student residency for that district which provides for residence as described in this paragraph. Within the discretion of each school district's board of education, the policy may but is not required to allow for establishment of residency by affidavit when an adult, whether a relative or not, who does not fall within one of the categories listed above, who holds legal residence in the school district, and who has assumed permanent care and custody of the child files an affidavit with the school district attesting that they have assumed custody and the reasons for assuming custody. Any policy allowing the establishment of residency by affidavit shall require the adult who provides the affidavit to affirm in such affidavit that the custody arrangement is permanent and that the adult contributes the major degree of support to the child. If the school district policy allows establishment of residency by affidavit, any person who willfully makes a statement in the affidavit which the person knows to be false shall, upon conviction, be guilty of a misdemeanor punishable by imprisonment in the county jail for not more than one (1) year or a fine of not more than Five Hundred Dollars ($500.00) or both such fine and imprisonment. Each school district shall include in its policy on residency any documentation necessary for the administration of the policy; or

2. The foster home, as defined in Section 1-1-105 of Title 10A of the Oklahoma Statutes, except a therapeutic foster home or a specialized foster home where a child is in voluntary placement as defined in subsection D of this section, in which the child has been placed:

a. by the person or agency having legal custody of the child pursuant to a court order, or

b. by a state agency having legal custody of the child pursuant to the provisions of Title 10A of the Oklahoma Statutes; or

3. Any orphanage or eleemosynary child care facility having full-time care and custody; or

4. Any eleemosynary child care facility in which a child is placed by a parent or guardian for full-time residential care; provided, the provision of this paragraph shall apply only to children who attend a district school by joint agreement of the school district and facility and who are not placed in the facility through a state contract. For purposes of this paragraph, "eleemosynary child care facility" means a facility:

a. where child care and services are provided, and

b. which is funded predominantly by benevolent or charitable funds and is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3); or

5. Any state-operated institution in which a child has been placed by a parent or guardian or by a state agency having legal custody of the child pursuant to the provisions of Title 10A or Section 3-101 of Title 43A of the Oklahoma Statutes for care and treatment due to a physical or mental condition of the child; or

6. The district in which a child who is entirely self-supporting resides and attends school; or

7. A state-licensed or operated emergency shelter.

B. No school district shall bear the cost of educating children who are not residents of this state; provided, a school district may furnish educational services pursuant to contract as elsewhere provided by law. A school district may furnish educational services pursuant to a contract to children who do not reside in the United States of America; provided, the children shall not be counted in the average daily membership of the school district.

C. For the purpose of ensuring that a child placed in a therapeutic foster care home, as defined in Section 1-1-105 of Title 10A of the Oklahoma Statutes, receives an appropriate education, no receiving school district shall be required to enroll such a child if the enrollment would cause the proportion of students in therapeutic foster care homes as compared to the average daily membership of the receiving district for the preceding school year to exceed two percent (2%). Children served by Head Start may not be counted for the purpose of this paragraph unless the child is on an individualized education program provided by the school district. Any school district may enroll such students who are outside the student's resident district in therapeutic foster care home placements which exceed this limit if the school determines it possesses the ability to provide such child an appropriate education.

D. When a child does not meet the criteria for residency provided in subsection A of this section and is placed in any of the following entities which is out of the child's home and not in the school district in which the child legally resides: a residential facility; a treatment program or center, including the facility operated pursuant to Section 485.1 of Title 63 of the Oklahoma Statutes; a therapeutic foster home as defined in Section 1-1-105 of Title 10A of the Oklahoma Statutes; or, a specialized foster home, which is a specialized foster home or an agency-contracted home under the supervision of and certified as meeting the standards set by the Department of Human Services and is funded through the Department of Human Services Home and Community-Based Waiver Services Program, the entity shall, if the child contends he or she resides in a school district other than the district where the entity is located, within seven (7) days of admittance, notify the school district in which the entity is located of the admittance.

Upon provision of educational services to such children pursuant to the provisions of subsection F of this section, the receiving school district shall receive the State Aid as defined in subsection C of Section 18-110 of this title for those students.

Access to the due process procedure guaranteed to children with disabilities shall be available to resolve disagreements about the appropriateness of placements of children with disabilities.

E. The governing body of any state institution for children operated pursuant to the provisions of Title 10A of the Oklahoma Statutes or Section 3-101 of Title 43A of the Oklahoma Statutes and the board of education of the school district in which the institution is located or any other school district in the state willing to provide necessary educational services may enter into a contract whereby the district will maintain a school for the children of the institution, in which event the residence of such children for school purposes will be considered as being in the district maintaining the school. The governing body of the state institutions specified in this subsection shall pay the costs for educating students placed in the state institution less any amount of funds received for such students by the school district contracting with the state institution to provide necessary educational services.

F. 1. The school district in which an entity as described in subsection D of this section exists to serve children in out-of-home placements shall, upon request of the individual or agency operating the entity, provide the educational services to which the children in the entity are entitled subject to the limitations provided in subsection C of this section. No person operating such an entity may contract for the provision of educational services with any school district other than the school district in which the entity is located unless the school district in which the entity is located agrees in writing to allow another school district to provide the educational services or unless the person operating the entity contracts with another school district for the provision of educational services to be provided through remote Internet-based courses. No person operating such an entity may contract for the provision of educational services with more than one school district.

2. Prior to location in a school district, the individual or agency operating an entity described in subsection D of this section which requires provision of educational services from the school district shall notify the local board of education of its anticipated educational needs. No school district shall be required to provide educational services for students in the entity until at least sixty (60) calendar days have elapsed from the time in which the local board of education was initially notified of the need unless the school district so agrees to provide the educational services sooner. The provisions of this paragraph shall not apply to therapeutic or specialized foster homes.

3. Educational services provided shall meet or exceed state accreditation standards. No school district shall be responsible for any expenses for students in an entity described in subsection D of this section which are not directly related to the provision of educational services. A school district shall not be obligated for expenses of those students in an entity in the current school year for whom educational services are requested after the district's first nine (9) weeks of the current school year if educational services are requested for twelve or more students than were served in the first nine (9) weeks, unless the school district chooses to provide educational services for the current school year. Contracts and agreements for provision of educational services may allow for the use of public and private sources of support which are available to share the costs of educational services and of therapies, treatments, or support services. Otherwise valid obligations to provide or pay for such services, such as Medicaid, shall remain in effect for children who are eligible for the services from sources other than the school district.

4. Upon the request of any residential facility which has contracted with the Office of Juvenile Affairs to provide either a regimented juvenile training program or a high-impact wilderness camp to a minimum of forty students who have been adjudicated, a school district may contract for the facility to provide the educational services to those students. Under such a contract, the facility shall operate in accordance with all applicable laws, including compliance with Section 18-114.7 of this title. Such contract shall include the State Aid generated by the students, less a fee for administrative services which may be retained by the school district, not to exceed ten percent (10%) of the total on an annual basis. The school district shall exercise supervision over the educational program in the facility and bear all responsibility for required educational reporting. The school district shall maintain access to all educational records for students in the facility, and shall provide for the appropriate academic credit and diplomas. The school district shall be indemnified against any actions or penalties on the part of the facility which result in adversity for the school district.

G. Any question as to the place of residence of any child for school purposes shall be decided pursuant to procedures utilized by the State Department of Education.

H. The receiving district shall notify the district of residence immediately upon finding that the student requires special education and related services and the district of residence shall participate in planning the student's Individualized Education Program (IEP) and in subsequent reviews of the program in accordance with the Individuals with Disabilities Education Act (IDEA). **(70-1-113)**

Where a child is placed in a DHS-contracted group home, the school district wherein the facility is located shall upon request of the facility, subject to certain constraints, provide the educational services, which meet or exceed state accreditation standards, to which the children in the group home are entitled. These educational services must meet the same standards and requirements as those provided in a public school setting. (*AG Op. No. 09-15*)

Unless otherwise provided by law or pursuant to a school district's decision to provide an extended school year, the costs of instruction beyond 180 days or ten months must be borne by the group home. (*AG Op. No. 09-15*)

Custody (as used in A.1) means legal custody; physical custody alone is not sufficient to change a child's residency for purposes of admission to school district. *Joshua C. v. Western Heights ISD No. I-41*, 898 P.2d 1324 (Okla. App. 1995).

District of child's residence is estopped to compel attendance where child had been attending another district for over five years under mistaken belief child was a resident of the latter district and where mistaken belief was induced by the district of child's residence's inaction, if not outright refusal, to enroll child. *Burdick v. ISD No. 52 of Okla. County,* 702 P.2d 48 (Okla. 1985).

Student of dependent district not offering student's grade must obtain regular or emergency transfer if student desires to attend school in a district outside his transportation area. *January 30, 1985 (AG Op. No. 84-144).*

The school district of residence of a child eligible for a free public education is the school district wherein the child's parents, legal guardian, person or institution having the care and custody of such child and who contribute in major degree to such child's care and custody reside, except where the child is supporting himself or herself entirely by his or her own efforts, in which case the school district of residence is the school district where the child actually lives, works and/or attends school. Where parents or legal guardians continue to provide in major degree to the care of a child eligible for a free public education their residence is the child's residence for school purposes subject to the exception heretofore stated. *August 8, 1980 (AG Op. No. 80-89).*

A child is a resident of school district in which its parents reside; child's residence does not change because child may have attended school in another state while still a resident of Oklahoma. *April 17, 1980 (AG Op. No. 80-76).*

Residence of child whose parents are living separate and apart from each other is the residence of the parent having actual custody of the child, if such parent contributes in major degree to the support of the child. *AG Op. October 6, 1965*

Where parents of child residing in family home have legal care and custody of child and contribute to child's support in substantial or "major" degree, school residence of child is same as residence of parents. *Gray v. Board of Education of Pawhusk*a, 389 P.2d 498 (Okla. 1964).

School age children confined in mental institution by court order are entitled to rights and privileges of school system wherein institution is located. *AG Op. September 16, 1963*.

Temporary absence does not deprive one of his residence. *Jones v. Burkett*, 346 P.2d 338 (Okla. 1959).

Residence is place where one's habitation is fixed without present purpose of removing therefrom. *Jones v. Burkett* 346 P.2d 338 (Okla. 1959).

Child residing on State-owned land may attend school in district in which land is located. *AG Op. July 17, 1959*

Child moving to another district after July 1st but before classes have begun in such district is not entitled to attend school in district from which he moved. *AG Op. October 6, 1955*

Parents moving from one district to another for the sole purpose of having their children attend school and who do not move into the district to reside permanently but only while the schools of the district are in session, do not establish a legal residence in the district. *AG Op. August 5, 1953*

Section 15. Children - School Age.

A. All children between the ages of five (5) years on or before September 1, and twenty-one (21) years on or before September 1, shall be entitled to attend school free of charge in the district in which they reside.

B. All children who are at least four (4) years of age but not more than five (5) years of age on or before September 1 and who have not attended a public school kindergarten shall be entitled to attend half-day or full-day early childhood programs at any public school in the state where such programs are offered; provided no child shall be required to attend any early childhood education program. The following paragraphs shall govern early childhood programs:

1. Children who are at least four (4) years of age but not more than five (5) years of age on or before September 1 shall be entitled to attend either half-day or full-day early childhood programs in their district of residence free of charge as long as the district has the physical facilities and teaching personnel to accommodate the child. For purposes of calculation of State Aid, children in an early childhood education program shall be included in the average daily membership of the district providing the program.

2. A child who has not reached the age of five (5) years on or before September 1 and who resides in a district which does not offer an early childhood program shall be eligible for transfer to a district where an early childhood program is offered if the district that offers the early childhood program agrees to the transfer. A district offering early childhood programs may refuse to accept a nonresident child if the district does not have the physical facilities or teaching personnel to accommodate the child in an early childhood education class. If the child requesting the transfer has not reached the age of four (4) years on or before September 1, the district may refuse to accept the nonresident child

if the district determines the child is not ready for an early childhood program. Children who are accepted in a program outside their district of residence as provided in this paragraph shall be included in the average daily membership of the district providing the program for State Aid funding subject to the State Aid formula weight limitations set forth in paragraph 1 of this subsection.

C. No child shall be enrolled in Kindergarten unless he or she will have reached the age of five (5) years on or before September 1 of the school year. No child shall be enrolled in the first grade unless he or she will have reached the age of six (6) years on or before September 1 of the school year.

D. No nonresident and nontransferred pupil shall be allowed to attend school in any school district unless a tuition fee equal to the per capita cost of education for a similar period in such district during the preceding year has been paid to the receiving district in advance yearly or by semester as determined by the district board of education of the receiving district. If the State Board of Education discovers that such attendance has been allowed without prior payment of the tuition fee in advance as required, no further payment of any State Aid Funds shall be made to the district until such district has shown to the satisfaction of the State Board of Education that all such tuition fees have been paid or that such tuition pupil will no longer be allowed to attend school until the required tuition fee has been paid.

E. Any parent, guardian, person or institution having care and custody of a child who pays ad valorem tax on real property in any other school district other than that in which that person resides may, with the approval of the receiving board, enroll the child in any school district in which ad valorem tax is paid and receive a credit on the nonresident tuition fee equal to the amount of the ad valorem tax paid for school district purposes in the school district in which the child is enrolled. Provided, the credit shall not exceed the total amount required for the tuition payment. **(70-1-114)**

> Where tuition has been paid to permit underage child to attend kindergarten in a school district, child is not entitled to attend first grade free of charge in another district where he does not meet general minimum age for free first grade attendance required by this Section. *January 29, 1976 (AG Op. No. 76-132).*

Section 16. Foreign Exchange Students.

Unless otherwise prohibited by federal law, school districts may:

1. Only have to accept exchange students on J-1 visas, issued pursuant to paragraph (a) (15) (J) of Section 1101 of Title 8 of the United States Code, which hold the sponsoring organization responsible;

2. Not have to accept exchange students on F-1 visas, issued pursuant to paragraph (a) (15) (M) of Section 1101 of Title 8 of the United States Code, which are for vocational or nonacademic students or F-1 visas, issued pursuant to paragraph (a) (15) (F) of Section 1101 of Title 8 of the United States Code, which hold the school responsible;

3. Use the governing regulations set by the United States Information Agency (USIA) for Exchange Visitor Programs as guidelines and standards for local schools;

4. Have the right to accept or reject any exchange student or sponsoring organization not adhering to the USIA regulations; and

5. Have the right to reject any exchange student if the student, legal custodian, or legal guardian is not a resident of the district. **(70-1-114.1)**

Section 16.1. District Head Start Programs.

Any school district is hereby authorized to operate as a grantee of a federal Head Start program. For purposes of calculating state aid a school district may not count any child enrolled in or teacher employed by a Head Start program operated by the district for the portion of the day federal Head Start funds or state funds appropriated for Head Start programs are received. **(70-1-114.2)**

Section 17. School System - Administered by State Department of Education, etc.

The public school system in Oklahoma shall be administered by the State Department of Education, State Superintendent of Public Instruction, boards of education of school districts, and superintendents of school districts. **(70-1-115)**

Note: Amended by HB 2139, Sec. 2 of the 2011 Reg. Sess.

Section 18. Positions in School System - Definitions.

1. Teacher: Any person who is employed to serve as district superintendent, principal, supervisor, counselor, librarian, school nurse or classroom teacher, or in any other instructional, supervisory, or administrative capacity, is defined as a teacher. Such person shall not be deemed qualified unless he or she holds a valid certificate or license, issued by and in accordance with the rules and regulations of the State Board of Education, to perform the particular services for which he or she is employed.

2. Superintendent: A superintendent of schools shall be the executive officer of the board of education and the administrative head of the school system of a district maintaining an accredited school, provided he or she holds an administrator's certificate recognized by the State Board of Education.

3. Principal: A principal shall be any person other than a district superintendent of schools having supervisory or administrative authority over any school or school building having two or more teachers. A teaching principal shall be a principal who devotes at least one-half the time school is in session to classroom teaching. Until July 1, 1993, teaching principals shall not be required to hold administrative certificates. Beginning July 1, 1993, teaching principals shall be required to hold administrative certificates.

4. For purposes of complying with the State Aid Law and other statutes which apportion money on the basis of teaching units or the number of teachers employed or qualified, all persons holding proper certificates or licenses and connected in any capacity with the instruction of pupils shall be designated as "teachers".

5. Entry-year Teacher: An entry-year teacher is any licensed teacher who is employed in a local school to serve as a classroom teacher under the guidance and assistance of a teacher consultant and an entry-year assistance committee. Any such person shall have completed the program of the college or school of education of the accredited institution of higher learning from which the person has been graduated.

6. Student Teacher: A student teacher is any student who is enrolled in an institution of higher learning approved by the State Board of Education for teacher training and who is jointly assigned by such institution of higher learning and a school district's board of education to perform practice teaching under the direction of a regularly employed and certified teacher. A student teacher, while serving a nonsalaried internship under the supervision of a certified teacher, shall be accorded the same protection of the laws as that accorded the certified teacher.

7. A school nurse employed full time by a board of education shall be a registered nurse licensed by the Oklahoma State Board of Nurse Registration and Nursing Education, and certified the same as a teacher by the State Department of Education. Provided that any person who is employed as a full-time nurse in any school district in Oklahoma, but who is not registered on the effective date of this act, may continue to serve in the same capacity, however such person shall, under rules and regulations adopted by the State Board of Education, attend classes in nursing and prepare to become registered. A school nurse employed by a board of education shall be accorded the same protection of laws and all other benefits accorded a certified teacher.

8. Support Employee: A support employee shall be an employee who provides those services which are not performed by certified teachers, principals, superintendents or administrators and which are necessary for the efficient and satisfactory functioning of a school district. **(70-1-116)**

Section 19. Teaching Principal - Classroom Teaching.

A teaching principal, as defined in Section 1-116 of Title 70 of the Oklahoma Statutes, shall be permitted to devote less than one-half (½) the time school is in session to classroom teaching only when it has been determined by the State

Board of Education that such action is necessary for the satisfactory completion of the school year. The State Board of Education shall adopt the necessary criteria to provide for such contingency. **(70-1-116.1)**

Section 20. Administration of Medicine - School Nurses.

A. A school nurse, or in the absence of such nurse, an administrator or designated school employees, pursuant to the written authorization of the parent or guardian of the student, may administer:

1. A nonprescription medicine; and

2. A filled prescription medicine as that term is defined by Section 353.1 of Title 59 of the Oklahoma Statutes pursuant to the directions for the administration of the medicine listed on the label or as otherwise authorized by a licensed physician.

B. In addition to the persons authorized to administer nonprescription medicine and filled prescription medicine pursuant to the provisions of subsection A of this section, a nurse employed by a county health department and subject to an agreement made between the county health department and the school district for medical services, may administer nonprescription medicine and filled prescription medicine pursuant to the provisions of this section.

C. Each school in which any medicine is administered pursuant to the provisions of this section shall keep a record of the name of the student to whom the medicine was administered, the date the medicine was administered, the name of the person who administered the medicine, and the type of name or the medicine which was administered.

D. Medicine to be administered by the county or school nurse, administrator or the designated persons and which is stored at the school shall be properly stored and not readily accessible to persons other than the persons who will administer the medication.

E. The school shall keep on file the written authorization of the parent or guardian of the student to administer medicine to the student.

F. A school nurse, county nurse, administrator, or the designated school employees shall not be liable to the student or a parent or guardian of the student for civil damages for any personal injuries to the student which result from acts or omissions of the school or county nurse, administrator, or designated school employees in administering any medicine pursuant to the provisions of this section. This immunity shall not apply to acts or omissions constituting gross, willful, or wanton negligence. **(70-1-116.2)**

Section 20.1. Self-Medication.

A. Notwithstanding the provisions of Section 1-116.2 of this title, the board of education of each school district shall adopt a policy on or before September 1, 2008, that permits the self-administration of inhaled asthma medication by a student for treatment of asthma and the self-administration of anaphylaxis medication by a student for treatment of anaphylaxis. The policy shall require:

1. The parent or guardian of the student to authorize in writing the student's self-administration of medication;

2. The parent or guardian of the student to provide to the school a written statement from the physician treating the student that the student has asthma or anaphylaxis and is capable of, and has been instructed in the proper method of, self-administration of medication;

3. The parent or guardian of the student to provide to the school an emergency supply of the student's medication to be administered pursuant to the provisions of Section 1-116.2 of this title;

4. The school district to inform the parent or guardian of the student, in writing, that the school district and its employees and agents shall incur no liability as a result of any injury arising from the self-administration of medication by the student; and

5. The parent or guardian of the student to sign a statement acknowledging that the school district shall incur no liability as a result of any injury arising from the self-administration of medication by the student.

B. As used in this section:

1. "Medication" means a metered dose inhaler or a dry powder inhaler to alleviate asthmatic symptoms, prescribed by a physician and having an individual label, or an anaphylaxis medication used to treat anaphylaxis, including but not limited to Epinephrine injectors, prescribed by a physician and having an individual label; and

2. "Self-administration" means a student's use of medication pursuant to prescription or written direction from a physician.

C. The permission for self-administration of asthma or anaphylaxis medication is effective for the school year for which it is granted and shall be renewed each subsequent school year upon fulfillment of the requirements of this section.

D. A student who is permitted to self-administer asthma or anaphylaxis medication pursuant to this section shall be permitted to possess and use a prescribed inhaler or anaphylaxis medication, including but not limited to an Epinephrine injector, at all times. **(70-1-116.3)**

Section 21. General Fund - Definition.

A. The general fund of any school district is hereby defined as a current expense fund and shall consist of all revenue or monies that can legally be expended within a certain specified fiscal year, but shall not be considered as including any money derived from a special building fund levy made in accordance with the provisions of Section 10 of Article X of the Oklahoma Constitution, nor shall it include any monies derived from the sale of bonds issued under the provisions of Section 26 of Article X of the Oklahoma Constitution. All monies derived from the proceeds of the school levies made pursuant to the provisions of Section 9 of Article X of the Oklahoma Constitution shall be placed in the general fund provided by this section. Expenditures from the general fund shall be noncapital in nature. All monies derived from state-dedicated revenue, state-appropriated revenue unless otherwise provided for by law, and county sources shall be placed in the general fund provided for by this section. Except as provided for in subsections K and L of this section, a district shall not be authorized to make capital expenditures as defined by this section from the general fund.

B. For purposes of this section, state-dedicated revenue shall be any registration or license fees, taxes, or penalties collected at the state level and distributed to common school districts. County sources shall be all funds collected by the county and distributed to common school districts but shall not include any funds derived from the building fund levy made in accordance with the provisions of Section 10 of Article X of the Oklahoma Constitution or funds derived from the sinking fund levy made in accordance with the provisions of Section 26 of Article X of the Oklahoma Constitution.

C. For the purposes of this section, a capital expenditure shall be an expenditure which results in the acquisition of fixed assets or additions to fixed assets. Capital expenditures shall include, but shall not be limited to, purchases of land or existing buildings, purchases of real property, improvements of grounds and sites for construction purposes, all expenditures for construction of buildings unless authorized by the State Board of Education or the State Board of Career and Technology Education upon application to the appropriate state board pursuant to subsection F of this section, additions to buildings, remodeling of buildings if such remodeling involves changes to roof structures or load-bearing walls, professional services, salaries and expenses of architects and engineers hired or assigned to capital projects except for such services, salaries and expenses as are applicable in preparation for a bond issue, expenditures for the initial installation and extension of service systems and built-in heat or air equipment to existing buildings, expenditures for the replacement of a building which has been destroyed, installments and lease payments on property, including interest, that have a terminal date and result in the acquisition of property, and expenditures for preliminary studies made prior to the time that authority to proceed with a construction project is given if authority is received within the same fiscal year that the expenditure was made.

D. Noncapital expenditures shall include, but shall not be limited to expenditures for maintenance, repair and replacement of property and equipment, initial or additional purchases of furniture and equipment, direct expenses for maintenance of plant, including grounds, salaries for maintenance of plant, including salaries for the upkeep of grounds, and repair and replacement of building structures which do not add to existing facilities and which do not involve changes in roof structures or load-bearing walls and which are not classified as a capital expenditure by this section.

E. The State Board of Education shall adopt and amend regulations regarding the classification, definition and financial administration of funds, accounts and expenditures in accordance with the requirements of this section.

F. A school district shall be authorized to make capital expenditures from the general fund to defray the cost of rebuilding a school building only if a school building or facility has been destroyed by a fire or natural disaster, such as flood, tornado or other act of God, or by an act of a public enemy of the United States or this state and monies received by the district through insurance coverage, federal reimbursement, contributions and allocation from the State Board of Education from the State Public Common School Building Equalization Fund are insufficient to rebuild the facility. Capital expenditures from the general fund pursuant to this subsection shall be limited to an amount necessary to defray the cost of rebuilding the facility which exceeds monies received by the school district through insurance, federal reimbursement, contributions and state allocations.

G. Schools which receive gifts or donations or state-appropriated monies for the purpose of capital expenditures or projects shall place such monies in the building fund, as provided by Section 1-118 of this title, and not in the general fund. School districts which receive gifts, grants, or donations of monies for noncapital expenditures may place the monies in the general fund, and such monies shall not be required to be used during the year in which the money was received but may accumulate from year to year and shall not be considered a part of the general fund collections when calculating the general fund carryover as provided for in subsection G of Section 18-200.1 of this title.

H. School districts which receive monies from rental, sale, or lease of buildings, impact aid monies, or grants, gifts or donations for capital purposes, whether from state, federal, or other sources, may place such monies in the building fund authorized by Section 1-118 of this title or the general fund authorized by this section.

I. Any construction of a building included as a capital expenditure from the general fund of a school district which is authorized and has had a contractual agreement concerning such construction executed prior to July 1, 1991, may be proceeded with and completed as authorized prior to July 1, 1991, as a capital expenditure from such general fund.

J. School districts receiving revenues authorized by Section 9B of Article X of the Oklahoma Constitution shall be authorized to make capital expenditures from the general revenue fund no greater than the amount levied by the incentive millage.

K. Upon the approval of the State Board of Education, a school district shall be authorized to make capital expenditures as defined in this section from its general fund if:

1. A bond issue has been rejected at an election by the school district electors voting on that question within the current school year, as certified by the secretary of the county election board; or

2. The school district has voted indebtedness at any time within the preceding three (3) school years through the issuance of bonds or through approval by voters of issuance of new bonds for more than eighty-five percent (85%) of the maximum allowable pursuant to the provisions of Section 26 of Article X of the Oklahoma Constitution as shown on the school district budget filed with the State Board of Equalization for the current school year and certifications by the Attorney General prior to April 1 of the current school year. The State Board of Education shall establish the rules to administer the provisions of this subsection which shall include, but not be limited to, specification of a maximum amount of general fund monies to be used for capital expenditures, the purposes for which such funds may be expended and the period of time in which such funds shall be encumbered.

L. Other provisions of this section notwithstanding, a school district shall be authorized to make capital expenditures from the general fund if the total assessed property valuation per average daily attendance is less than sixty percent (60%) of the state average total assessed property valuation per average daily attendance and if, for each year in which general fund revenue is used for capital expenditures, the district has voted the five-mill building fund levy authorized in Section 10 of Article X of the Oklahoma Constitution and has voted indebtedness through the issuance of new bonds for at least eighty-five percent (85%) within the last three (3) years of the maximum allowable pursuant to the provisions of Section 26 of Article X of the Oklahoma Constitution as shown on the school district budget filed with the State Board of Equalization for the current school year and certifications by the Attorney General prior to April 1 of the school year. Provided, the maximum amount of general fund revenue used for capital expenditures pursuant to this subsection shall not exceed five percent (5%) of the total yearly revenue to the general fund. Said fund may not be used for capital expenditures for more than five (5) consecutive years and may only be utilized for remodeling or construction of classroom facilities and such ancillary facilities to said classrooms as may be necessary. Provided, further, the State Superintendent of Public Instruction shall certify in writing, prior to the expenditure of the funds for which provision is made in this subsection, that such expenditures are in compliance with the provisions of this subsection. **(70-1-117)**

Section 22. Building Fund - Definition.

The building fund of any school district shall consist of all monies derived from the proceeds of a building fund levy of not to exceed five (5) mills in any year, voted by the people of a school district pursuant to the provisions of Article X, Section 10, of the Oklahoma Constitution, monies appropriated by the state for the purpose of capital expenditures or projects, monies allocated to a school district by the State Board of Education from the State Public School Building Equalization Fund, and monies donated to a school district for the purpose of capital projects or improvements and may be used for erecting, remodeling, repairing, or maintaining school buildings, for purchasing furniture, equipment and computer software to be used on or for school district property, for repairing and maintaining computer systems and equipment, for paying energy and utility costs, for purchasing telecommunications utilities and services, for paying fire and casualty insurance premiums for school facilities, for purchasing security systems, for paying salaries of security personnel, or for one or more, or all, of such purposes. Proceeds of such levies shall not be required to be used during the year for which a levy is made but may accumulate from year to year until adequate for the purposes intended. The building fund hereinabove defined is hereby declared to be a current expense fund, but shall not be considered a part of the general operating fund. No monies derived from the proceeds of the school levies made pursuant to the provisions of Article X, Section 9 of the Oklahoma Constitution may be placed in the building fund provided by this section. **(70-1-118)**

Note: See Section 673 for constitutional provisions; See Section 664 and 664.1 herein as to investment of funds in custody of treasurer.

Monies from building fund may be used for the acquisition, design, construction, and maintenance of a school building parking lot. *January 1, 1989 (AG Op. No. 88-17).*

A local school district is permitted to use the building fund monies to pay the premiums for fire and casualty insurance for the district's buildings. *June 18, 1987 (AG Op. No. 87-49).*

Salaries of maintenance and janitorial personnel can be paid from building fund. *July 24, 1975 (74-273).*

Building fund can be used to purchase and construct (install) lighting for a football stadium. *May 13, 1971 (AG Op. No. 71-244).*

Building fund may be used to help pay cost of erecting or remodeling building in another district as location for joint school program maintained by both districts. *AG Op. June 5, 1964*

Building fund can be used to acquire school building site. *AG Op. January 22, 1963*

Band instruments can be purchased from building fund. *AG Op. October 19, 1961*

Building fund cannot be used to construct black top road as access road to district buildings. *AG Op. October 15, 1959*

Salary of cook cannot be paid from building fund. *AG Op. January 31, 1958*

Teacherage can be built from building fund. *AG Op. December 7, 1957*

Building fund expenditures pending tax protest period subject to same limitations as those from general fund. *AG Op. September 11, 1957*

Building fund may be used to construct bleachers for high school baseball and softball parks. *AG Op. September 5, 1957*

Building fund may be used to dig or drill a water well and to construct a pump house with water pump and piping from the pump house to the schoolhouse. *AG Op. July 22, 1955*
Building fund may be used to purchase desks, chairs, typewriters, refrigerators, sewing machines, and other moveable chattels which furnish, fit or equip a building for school purposes. *AG Op. August 12, 1955*

Building levy funds can be used to construct sidewalks extending from new building if sidewalks were included in plans for the building. *AG Op. October 13, 1954*

Building levy funds cannot be used to construct school bus loading zone and car parking area (an independent project, not connected with the erection of school building). *AG Op. October 13, 1954*

Fact that there is a house on a lot needed as a school site does not prevent purchase thereof from building fund. *AG Op. December 31, 1953*

Building fund can be used to construct a swimming pool. *AG Op. September 4, 1953*

Heating system for building that was "constructed for a central heating system which was never installed" may be installed with building fund money, although system so installed is of different type from that originally planned. *AG Op. July 30, 1953*

Sewage disposal unit consisting of a pump house and new pit with extended pipeline may be constructed with building fund levy. *AG Op. January 5, 1952*

Building fund levy may be used to purchase uncompleted stadium and to complete the stadium. *AG Op. May 5, 1951*

May be used to construct bleachers for a football field and to purchase a site for the bleachers. *AG Op. April 21, 1951*

Cost of constructing an addition to an existing building can be paid for with money in the building fund. *AG Op. February 18, 1950*

Building fund may be used to purchase army barracks building, move building on school district property and place it on new foundation and equip it for classroom building. *AG Op. March 11, 1948*

Building fund levy for purpose of erecting a vocational agriculture building may not be used to purchase a truck for operation in connection with such building. *AG Op. October 27, 1944*

Can be used to complete unfinished building by installing toilets and constructing septic tanks. *AG Op. April 21, 1943*

Erection of "bleachers" on the football field proper expenditure from building fund. *Lowden v. Jefferson County Excise Board*, 122 P.2d 991 (Okla. 1942)

"Building" referred to in constitutional provisions is used in broad sense, and means any edifice of a permanent nature consonant with the recognized and proper object and purpose of the public schools. *Lowden v. Jefferson County Excise Board*, 122 P.2d 991 (Okla. 1942).

Building fund may be allowed to accumulate and need not be expended during fiscal year in which collected. *Lonestar Gas Co. v. Bryan County Excise Board*, 141 P.2d 83 (Okla. 1943).

Cost of site for building to be erected from building fund can be paid for with building fund money. *AG Op. January 21, 1937*

A five mill building fund levy may be used to complete an unfinished building. *AG Op. September 25, 1936*

Section 23. Building Funds of Technology Center School Districts.

The building fund of any technology center school district shall consist of all monies derived from the proceeds of a building fund levy of not to exceed five (5) mills in any year, voted by the people of a school district pursuant to the provisions of Article X, Section 10, of the Oklahoma Constitution, monies appropriated by the state for the purpose of capital expenditures or projects, and monies donated to a school district for the purpose of capital projects or improvements and may be used for erecting, remodeling, repairing or maintaining school buildings, for purchasing furniture, equipment and computer software for instructional and noninstructional purposes, for repairing and maintaining computer systems and equipment, for paying energy and utility costs, for purchasing telecommunications utilities and services, for paying fire and casualty insurance premiums for school facilities, for purchasing security systems, for paying salaries of security personnel, or for one or more, or all, of such purposes. Proceeds of such levies shall not be required to be used during the year for which a levy is made but may accumulate from year to year until adequate for the purposes intended. The building fund hereinabove defined is hereby declared to be a current expense fund, but shall not be considered a part of the general operating fund. No monies derived from the proceeds of the school levies made pursuant to the provisions of Article X, Section 9B of the Oklahoma Constitution may be placed in the building fund provided by this section. . **(70-1-118.1)**.

Section 24. Sinking Fund - Definition.

The sinking fund of any district shall consist of all money derived from ad valorem taxes or otherwise as provided by law for the payment of bonds and judgements and interest thereon. **(70-1-119)**

Note: See Sections 318, 664, and 664.1 herein as to investment of funds.

School district may not utilize sinking fund levies pursuant to Okla. Const. Art. X, Sec. 28, where no judgment has been rendered against it. *December 2, 1985 (AG Op. No. 85-133).*

Section 25. Controls Over Other Laws.

The provisions of this act shall control over any conflicting provisions in the laws of this state. **(70-1-121)**

Section 25.1. Contribution to Revolving Fund by Taxpayers.

A. Each individual taxpayer required to file a state income tax return and each corporation required to file a corporate tax return who desires to contribute to the Public School Classroom Support Revolving Fund created in Section 2 of this act may designate the contribution on the appropriate income or corporate tax form. The contribution may not increase or decrease the income or liability of the taxpayer and may be made by reducing the tax refund of a taxpayer by the amount designated or by accepting additional payment from the taxpayer by the amount designated, whichever is appropriate.

B. 1. The Oklahoma Tax Commission shall include on each state individual income or corporate tax return form for tax years beginning after December 31, 2011, an opportunity for the taxpayer to donate for the benefit of the Public School Classroom Support Revolving Fund. The instructions accompanying the tax form shall be provided to the Oklahoma Tax Commission by the State Superintendent of Public Instruction and shall contain a description of the purpose for which the Public School Classroom Support Revolving Fund was established and information on the use of monies from the tax contribution.

2. Taxpayers who are entitled to refunds shall have the refunds reduced by the amount designated by the taxpayer. The Oklahoma Tax Commission shall annually determine the total amount designated plus the amount received in excess payments and shall report the total amount to the Office of the State Treasurer. The State Treasurer shall credit the total amount to the Public School Classroom Support Revolving Fund created in Section 2 of this act at the earliest possible time.

C. The incremental cost of administration of contributions shall be paid out of the fund to the Oklahoma Tax Commission from amounts received pursuant to this section before funds are expended for the purposes of the fund. **(70-1-122)**

Note: Enacted by HB 1852, Sec. 1 of the 2011 Reg. Sess.

Section 25.2. Public School Classroom Support Revolving Fund.

A. There is hereby created in the State Treasury a revolving fund for the State Board of Education to be designated the "Public School Classroom Support Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the State Board of Education from the state income tax checkoff as provided for in Section 1 of this act, any state-appropriated funds, federal funds, donations, grants, contributions, and gifts from any public or private source. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the State Board of Education for the purposes of providing grants to public school classroom teachers as provided for in subsection B of this section. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of State Finance for approval and payment.

B. Contingent upon the amount of funds available in the Public School Classroom Support Revolving Fund, the State Board of Education shall award one or more grants annually to classroom teachers. The grants shall be used by the classroom teacher for supplies, materials, or equipment for the class or classes taught by the teacher. The Board shall determine the criteria for and establish a process for the submission of grants applications. The applications shall be considered on a statewide competitive basis. The Board shall promulgate rules for the implementation of the grants issued pursuant to this section. **(70-1-123)**

Note: Enacted by HB 1852, Sec. 2 of the 2011 Reg. Sess.

Section 26. State Board of Education - Members - Terms.

A. The State Board of Education shall consist of seven (7) members. The State Superintendent of Public Instruction shall be a member and the chairperson of the Board. The remaining six members shall be appointed by the Governor by and with the advice and consent of the Senate. Except as otherwise provided for in subsection B of this section, upon assuming office each Governor shall appoint one member from each congressional district and one member from the state at large. Each appointment shall be made to take effect on April 2. The term of each appointed member shall be four (4) years. Appointed members shall serve until a successor is appointed. Appointed members shall serve at the pleasure of the Governor. Upon the occurrence of a vacancy the same shall be filled by the Governor, subject to confirmation by the Senate at the next session of the Legislature. The appointment to fill a vacancy shall be made for the unexpired term.

B. On the effective date of this act, all appointed positions of the current State Board of Education shall be deemed vacant and the terms of persons serving on the Board shall be deemed terminated. The Governor shall make initial appointments pursuant to the provisions of this subsection within thirty (30) days of the effective date of this act, with one member appointed from each congressional district and one member appointed from the state at large. The appointments shall be subject to confirmation by the Senate at the next session of the Legislature. The terms for members appointed pursuant to this subsection shall terminate on April 2, 2015. Thereafter, members shall be appointed as provided for in subsection A of this section.

C. No person shall be eligible to be appointed to serve on the State Board unless the person has been awarded a high school diploma or certificate of high school equivalency. Any member appointed to the State Board shall complete the workshop requirements of a new school board member pursuant to Section 5-110 of this title within thirteen (13) months following or preceding the appointment of the member. Notwithstanding any provision of law to the contrary, the State Department of Education shall not charge any member of the State Board of Education a fee for any workshop provided by the Department for board members pursuant to Section 5-110 of this title and shall not pay a fee to any organization or institution of higher education on behalf of a member of the State Board of Education, or reimburse any member of the Board for a fee paid to any organization or institution of higher education, for attendance at a workshop or courses to satisfy the requirements of Section 5-110 of this title.

D. Members of the Board shall receive necessary traveling expenses while in the performance of their duties in accordance with the State Travel Reimbursement Act. **(70-3-101)**

Note: Amended by HB 2139, Sec. 3 & SB 435, Sec. 1 of the 2011 Reg. Sess.

Hotel and other subsistence expenses of members of the State Board of Education cannot exceed maximum amount allowable to other State Officials. *AG Op. September 4, 1949.*

Section 27. Meetings.

The State Board of Education shall meet in regular session once each month. Special meetings may be called by the president or by a majority of the members of the Board. **(70-3-102)**

Section 28. Quorum.

A quorum of the State Board of Education shall consist of four (4) members. No business may be transacted at any meeting unless a quorum is present and every act of said Board shall be approved by a majority of the membership of said Board. **(70-3-103)**

Section 29. State Board of Education - Powers and Duties.

The supervision of the public school system of Oklahoma shall be vested in the State Board of Education and, subject to limitations otherwise provided by law, the State Board of Education shall:

1. Adopt policies and make rules for the operation of the public school system of the state;

2. Appoint, prescribe the duties and fix the compensation of a secretary, an attorney and all other personnel necessary for the proper performance of the functions of the State Board of Education. The secretary shall not be a member of the Board;

3. Submit to the Governor a departmental budget based upon major functions of the Department as prepared by the State Superintendent of Public Instruction and supported by detailed data on needs and proposed operations as partially determined by the budgetary needs of local school districts filed with the State Board of Education for the ensuing fiscal year. Appropriations therefor shall be made in lump-sum form for each major item in the budget as follows:

a. State Aid to schools,

b. the supervision of all other functions of general and special education including general control, free textbooks, school lunch, Indian education and all other functions of the Board and an amount sufficient to adequately staff and administer these services, and

c. the Board shall determine the details by which the budget and the appropriations are administered. Annually, the Board shall make preparations to consolidate all of the functions of the Department in such a way that the budget can be based on two items, administration and aid to schools. A maximum amount for administration shall be designated as a part of the total appropriation;

4. On the first day of December preceding each regular session of the Legislature, prepare and deliver to the Governor and the Legislature a report for the year ending June 30 immediately preceding the regular session of the Legislature. The report shall contain:

a. detailed statistics and other information concerning enrollment, attendance, expenditures including State Aid, and other pertinent data for all public schools in this state,

b. reports from each and every division within the State Department of Education as submitted by the State Superintendent of Public Instruction and any other division, department, institution or other agency under the supervision of the Board,

c. recommendations for the improvement of the public school system of the state,

d. a statement of the receipts and expenditures of the State Board of Education for the past year, and

e. a statement of plans and recommendations for the management and improvement of public schools and such other information relating to the educational interests of the state as may be deemed necessary and desirable;

5. Provide for the formulation and adoption of curricula, courses of study and other instructional aids necessary for the adequate instruction of pupils in the public schools;

6. Have authority in matters pertaining to the licensure and certification of persons for instructional, supervisory and administrative positions and services in the public schools of the state subject to the provisions of Section 6-184 of this title, and shall formulate rules governing the issuance and revocation of certificates for superintendents of schools, principals, supervisors, librarians, clerical employees, school nurses, school bus drivers, visiting teachers, classroom teachers and for other personnel performing instructional, administrative and supervisory services, but not including members of boards of education and other employees who do not work directly with pupils, and may charge and collect reasonable fees for the issuance of such certificates:

a. the State Department of Education shall not issue a certificate to and shall revoke the certificate of any person who has been convicted, whether upon a verdict or plea of guilty or upon a plea of nolo contendere, or received a suspended sentence or any probationary term for a crime or an attempt to commit a crime provided for in Section 843.5 of Title 21 of the Oklahoma Statutes if the offense involved sexual abuse or sexual exploitation as those terms are defined in Section 1-1-105 of Title 10A of the Oklahoma Statutes, Sections 741, 843.1, if the offense included sexual abuse or sexual exploitation, 865 et seq., 885, 888, 891, 1021, 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes or who enters this state and who has been convicted, received a suspended sentence or received a deferred judgement

for a crime or attempted crime which, if committed or attempted in this state, would be a crime or an attempt to commit a crime provided for in any of said laws,

b. all funds collected by the State Department of Education for the issuance of certificates to instructional, supervisory and administrative personnel in the public schools of the state shall be deposited in the "Teachers' Certificate Fund" in the State Treasury and may be expended by the State Board of Education to finance the activities of the State Department of Education necessary to administer the program, for consultative services, publication costs, actual and necessary travel expenses as provided in the State Travel Reimbursement Act incurred by persons performing research work, and other expenses found necessary by the State Board of Education for the improvement of the preparation and certification of teachers in Oklahoma. Provided, any unobligated balance in the Teachers' Certificate Fund in excess of Ten Thousand Dollars ($10,000.00) on June 30 of any fiscal year shall be transferred to the General Revenue Fund of the State of Oklahoma. Until July 1, 1997, the State Board of Education shall have authority for approval of teacher education programs. The State Board of Education shall also have authority for the administration of teacher residency and professional development, subject to the provisions of the Oklahoma Teacher Preparation Act;

7. Promulgate rules governing the classification, inspection, supervision and accrediting of all public nursery, kindergarten, elementary and secondary schools and on-site educational services provided by public school districts or state-accredited private schools in partial hospitalization programs, day treatment programs, and day hospital programs as defined in this act for persons between the ages of three (3) and twenty-one (21) years of age in the state. However, no school shall be denied accreditation solely on the basis of average daily attendance.

Any school district which maintains an elementary school and faces the necessity of relocating its school facilities because of construction of a lake, either by state or federal authority, which will inundate the school facilities, shall be entitled to receive probationary accreditation from the State Board of Education for a period of five (5) years after the effective date of this act and any school district, otherwise qualified, shall be entitled to receive probationary accreditation from the State Board of Education for a period of two (2) consecutive years to attain the minimum average daily attendance. The Head Start and public nurseries or kindergartens operated from Community Action Program funds shall not be subjected to the accrediting rules of the State Board of Education. Neither will the State Board of Education make rules affecting the operation of the public nurseries and kindergartens operated from federal funds secured through Community Action Programs even though they may be operating in the public schools of the state. However, any of the Head Start or public nurseries or kindergartens operated under federal regulations may make application for accrediting from the State Board of Education but will be accredited only if application for the approval of the programs is made. The status of no school district shall be changed which will reduce it to a lower classification until due notice has been given to the proper authorities thereof and an opportunity given to correct the conditions which otherwise would be the cause of such reduction.

Private and parochial schools may be accredited and classified in like manner as public schools or, if an accrediting association is approved by the State Board of Education, by procedures established by the State Board of Education to accept accreditation by such accrediting association, if application is made to the State Board of Education for such accrediting;

8. Be the legal agent of the State of Oklahoma to accept, in its discretion, the provisions of any Act of Congress appropriating or apportioning funds which are now, or may hereafter be, provided for use in connection with any phase of the system of public education in Oklahoma. It shall prescribe such rules as it finds necessary to provide for the proper distribution of such funds in accordance with the state and federal laws;

9. Be and is specifically hereby designated as the agency of this state to cooperate and deal with any officer, board or authority of the United States Government under any law of the United States which may require or recommend cooperation with any state board having charge of the administration of public schools unless otherwise provided by law;

10. Be and is hereby designated as the "State Educational Agency" referred to in Public Law 396 of the 79th Congress of the United States, which law states that said act may be cited as the "National School Lunch Act", and said State Board of Education is hereby authorized and directed to accept the terms and provisions of said act and to enter into such agreements, not in conflict with the Constitution of Oklahoma or the Constitution and Statutes of the United States, as may be necessary or appropriate to secure for the State of Oklahoma the benefits of the school lunch program established and referred to in said act;

11. Have authority to secure and administer the benefits of the National School Lunch Act, Public Law 396 of the 79th Congress of the United States, in the State of Oklahoma and is hereby authorized to employ or appoint and fix the compensation of such additional officers or employees and to incur such expenses as may be necessary for the accomplishment of the above purpose, administer the distribution of any state funds appropriated by the Legislature required as federal matching to reimburse on children's meals;

12. Accept and provide for the administration of any land, money, buildings, gifts, donation or other things of value which may be offered or bequeathed to the schools under the supervision or control of said Board;

13. Have authority to require persons having administrative control of all school districts in Oklahoma to make such regular and special reports regarding the activities of the schools in said districts as the Board may deem needful for the proper exercise of its duties and functions. Such authority shall include the right of the State Board of Education to withhold all state funds under its control, to withhold official recognition, including accrediting, until such required reports have been filed and accepted in the office of said Board and to revoke the certificates of persons failing or refusing to make such reports;

14. Have general supervision of the school lunch program. The State Board of Education may sponsor workshops for personnel and participants in the school lunch program and may develop, print and distribute free of charge or sell any materials, books and bulletins to be used in such school lunch programs. There is hereby created in the State Treasury a revolving fund for the Board, to be designated the School Lunch Workshop Revolving Fund. The fund shall consist of all fees derived from or on behalf of any participant in any such workshop sponsored by the State Board of Education, or from the sale of any materials, books and bulletins, and such funds shall be disbursed for expenses of such workshops and for developing, printing and distributing of such materials, books and bulletins relating to the school lunch program. The fund shall be administered in accordance with the Revolving Fund Procedures Act;

15. Prescribe all forms for school district and county officers to report to the State Board of Education where required. The State Board of Education shall also prescribe a list of appropriation accounts by which the funds of school districts shall be budgeted, accounted for and expended; and it shall be the duty of the State Auditor and Inspector in prescribing all budgeting, accounting and reporting forms for school funds to conform to such lists;

16. Provide for the establishment of a uniform system of pupil and personnel accounting, records and reports;

17. Have authority to provide for the health and safety of school children and school personnel while under the jurisdiction of school authorities;

18. Provide for the supervision of the transportation of pupils;

19. Have authority, upon request of the local school board, to act in behalf of the public schools of the state in the purchase of transportation equipment;

20. Have authority and is hereby required to perform all duties necessary to the administration of the public school system in Oklahoma as specified in the Oklahoma School Code; and, in addition thereto, those duties not specifically mentioned herein if not delegated by law to any other agency or official;

21. Administer the State Public Common School Building Equalization Fund established by Section 32 of Article X of the Oklahoma Constitution. Any royalties, bonuses, rentals or other monies derived from oil and gas and all other mineral leases on lands that have been or may be granted by the United States to the state for the use and benefit of the common schools, or lands that are or may be held by the Commissioners of the Land Office for the use and benefit of the common schools, the proceeds of the sale of easements, improvements and sand and gravel on any such lands, any monies as may be appropriated or designated by the Legislature, other than ad valorem taxes, any other funds identified by the State Department of Education, which may include, but not be limited to, grants-in-aid from the federal government for building purposes, the proceeds of all property that shall fall to the state by escheat, penalties for unlawful holding of real estate by corporations, and capital gains on assets of the permanent school funds, shall be deposited in the State Public Common School Building Equalization Fund. The fund shall be used to aid school districts in acquiring buildings, subject to the limitations fixed by Section 32 of Article X of the Oklahoma Constitution. It is hereby declared that the term “acquiring buildings” as used in Section 32 of Article X of the Oklahoma Constitution shall mean acquiring or improving school sites, constructing, repairing, remodeling or equipping buildings, or acquiring school furniture, fixtures, or equipment. If sufficient monies are available in the fund, the Board shall solicit proposals for grants

from school districts and shall determine the process for consideration of proposals. Grants shall be awarded only to school districts which have a total assessed property valuation per average daily membership that is less than the state average total assessed property valuation per average daily membership and, at the time of application, the district has voted the five-mill building fund levy authorized in Section 10 of Article X of the Oklahoma Constitution, and has voted indebtedness through the issuance of new bonds for at least eighty-five percent (85%) within the last three (3) years of the maximum allowable pursuant to the provisions of Section 26 of Article X of the Oklahoma Constitution as shown on the school district budget filed with the State Board of Equalization for the current school year and certifications by the Attorney General prior to April 1 of the school year. The amount of each grant awarded by the Board each year shall not exceed One Million Dollars ($1,000,000.00). The Board shall give priority consideration to school districts which have a total assessed property valuation per average daily membership that is equal to or less than twenty-five percent (25%) of the state average total assessed property valuation per average daily membership. The Board is authorized to prorate grants awarded if monies are not sufficient in the fund to award grants to qualified districts. The State Board of Education shall prescribe rules for making grants of aid from, and for otherwise administering, the fund pursuant to the provisions of this paragraph, and may employ and fix the duties and compensation of technicians, aides, clerks, stenographers, attorneys and other personnel deemed necessary to carry out the provisions of this paragraph. The cost of administering the fund shall be paid from monies appropriated to the State Board of Education for the operation of the State Department of Education;

22. Recognize that the Director of the Oklahoma Department of Corrections shall be the administrative authority for the schools which are maintained in the state reformatories and shall appoint the principals and teachers in such schools. Provided, that rules of the State Board of Education for the classification, inspection and accreditation of public schools shall be applicable to such schools; and such schools shall comply with standards set by the State Board of Education;

23. Have authority to administer a revolving fund which is hereby created in the State Treasury, to be designated the Statistical Services Revolving Fund. The fund shall consist of all monies received from the various school districts of the state, the United States Government, and other sources for the purpose of furnishing or financing statistical services and for any other purpose as designated by the Legislature. The State Board of Education is hereby authorized to enter into agreements with school districts, municipalities, the United States Government, foundations and other agencies or individuals for services, programs or research projects. The Statistical Services Revolving Fund shall be administered in accordance with the Revolving Fund Procedures Act, Section 155 et seq. of Title 62 of the Oklahoma Statutes; and

24. Have authority to review preliminary plans for new construction and major alteration of public school buildings where structural changes are proposed. No bids shall be let for the construction or major alteration of any public school building until preliminary plans and specifications for such construction or alteration have been submitted to and reviewed by the State Department of Education. The period of time during which such review is conducted by the State Department of Education shall not exceed thirty (30) days. The State Department of Education shall advise each local school district regarding said review of preliminary plans and specifications. Provided, nothing in this subsection shall be construed as repealing any ordinance or building code of any city, town or county. **(70-3-104)**

Note: Amended by HB 2139, Sec. 4 of the 2011 Reg. Sess.

A person hired by someone who does not have appointing or hiring authority, who is hired over the objection of the governing body that does have appointing or hiring authority, is neither an employee nor a de jure or de facto officer. Such a hiring is an ultra vires act. As a result of the ultra vires hiring, such a person is a usurper who lacks the authority to carry out the official duties of the State. The acts of such a person are void. *(AG Op. No. 2011-6)*

An administrative body cannot enact irrepealable rules or regulations or limit or restrict its own powers or the powers of its successors as to repeal or modification of its rules or regulations. An administrative agency, can however be said to bind itself and its successors in office, in the sense that the administrative agency's repeal or amendment of an agency rule or regulation does not affect a vested right, privilege or interest gained by any person by operation of an agency rule, prior to its modification or repeal. *May 6, 1986 (AG Op. No. 86-44).*

Intent of statute, which requires that principal's certificate shall include not less than a standard master's degree, is that no one is to be certified as a principal unless that person holds a standard master's degree. *State ex rel. Thompson v. Ekberg*, 613 P.2d 466 (Okla. 1980).

State Board of Education does not have authority to waive master's degree requirement of principal's certificate; Board's waiver has no effect. *State ex rel. Thompson v. Ekberg*, 613 P.2d 466 (Okla. 1980).

State Board of Education cannot withdraw or withhold accreditation solely because of district's failure to meet minimum ADA standards. *March 21, 1979 (AG Op. No. 79-59).*

Section 30. Persons Convicted of Certain Crimes Ineligible for Teacher Certificate.

No person shall receive a certificate for instructional, supervisory or administrative position in an accredited school of this state who has been convicted of a felony, any crime involving moral turpitude or a felony violation of the narcotic laws of the United States or the State of Oklahoma, provided the conviction was entered within the preceding ten year period. **(70-3-104.1)**

> Person first applying for teaching certificate after October 1, 1979, cannot be issued certificate if conviction was entered within 10 years preceding date of application, and will not be eligible for certificate until 10 years have elapsed from the date conviction was entered *October 19, 1979 (AG Op. No. 79-265).*
>
> Holder of renewable certificate issued prior to October 1,1979 is not eligible to seek renewal until 10 years have elapsed from date of conviction. *October 19, 1979 (AG Op. No. 79-265)*
>
> Criminal conviction entered after October 1, 1979, is basis for denial of renewal of certificate issued prior to October 1, 1979. *October 19, 1979 (AG Op. No. 79-265).*

Section 31. Application and Filing of Four-Year Improvement Plans For Accreditation.

A. As part of the requirements for receiving accreditation by the State Board of Education, each school district board of education shall adopt a Comprehensive Local Education Plan once every six (6) years. The plan at a minimum shall contain the following:

1. A school improvement plan as provided for in Section 5-117.4 of this title;

2. A capital improvement plan as provided for in Section 18-153 of this title;

3. An alternative education plan, as provided for in subsection B of Section 1210.566 of this title; and

4. A reading sufficiency plan as provided for in Section 1210.508C of this title.

B. The State Board of Education shall promulgate rules for monitoring compliance with the provisions of this section by school districts. The State Department of Education shall provide training for regional accreditation officers in alternative education program compliance. **(70-3-104.2)**

Section 32. Requirements for Compliance with Accreditation Standards.

A. The Legislature, recognizing its obligation to the children of this state to ensure their opportunity to receive an excellent education, and recognizing its obligation to the taxpayers of this state to ensure that schooling is accomplished in an efficient manner, hereby establishes requirements for compliance with quality standards which the public schools and school districts, within the limits of resources now or subsequently available, must meet.

B. State accreditation shall be withdrawn from or denied to schools or school districts that do not meet the requirements of Sections 2, 3, 6, 28, 29, 30, 44, 45, 46, 47, 48, and 49 of this act, and the State Board of Education shall take action as required by this act to ensure that students affected are enrolled in schools that are able to maintain state accreditation. Nothing herein shall be construed as prohibiting the withdrawing or denial of accreditation for failure to meet requirements as elsewhere provided by law. **(70-3-104.3)**

Section 33. Implementation of Accreditation Standards.

A. On or before February 1, 1991, the State Board of Education shall adopt standards for the accreditation of the public schools in this state according to the requirements of this act, to be effective as set forth in this act. The accreditation standards shall incorporate the curricular standards established pursuant to Section 11-103.6 of this title for implementation with the 1993-94 school year. No school shall be denied accreditation or have accreditation withdrawn prior to the 1997-98 school year solely for failure to fully implement the curricular standards. The accreditation standards shall equal or exceed the accreditation standards for schools promulgated by the North Central Association of Colleges and Schools to the extent that the standards are consistent with an academic results oriented

approach to accreditation, excluding those standards which deal with affective behavior to the extent the adoption of the standards does not conflict with state statute. The accreditation standards adopted by the State Board shall encompass accreditation for elementary schools, middle schools, junior high schools, and high schools. The accreditation standards shall be made available for public inspection at the offices of the State Department of Education.

B. Standards for accreditation adopted by the State Board of Education shall include standards relating to the provision of school counselors to the public school children of this state. The State Board of Education shall require each local school district to provide information regarding the number of counselors serving each school site, the duties of all such counselors including all administrative duties, the number of students served by each counselor, and information regarding the number of counselors employed per elementary school, middle school, junior high school, and high school.

C. Except as otherwise provided by subsection A of this section with regard to curricular standards, as a condition of receiving state accreditation pursuant to this act:

1. High schools shall meet the accreditation standards not later than June 30, 1995; and

2. Elementary, middle, and junior high schools shall meet the accreditation standards not later than June 30, 1999.

Schools shall thereafter continue to meet the accreditation standards as a condition of continued accreditation. Nothing herein shall be construed as preventing changes to the adopted standards by the State Board of Education pursuant to the Oklahoma Administrative Procedures Act.

D. If one or more school sites fails to receive accreditation as required pursuant to this section by the dates set forth in subsection C of this section or subsequently loses accreditation, the State Board of Education shall close the school and reassign the students to accredited schools within the district or shall annex the district to one or more other districts in which the students can be educated in accredited schools.

E. State Board accreditation regulations shall provide for warnings and for assistance to schools and school districts whenever there is reason to believe a school is in danger of losing its state accreditation.

F. The State Board shall provide assistance to districts in considering the possibility of meeting accreditation requirements through the use of nontraditional means of instruction. The State Board shall also assist districts in forming cooperatives and making arrangements for the use of satellite instruction or other instructional technologies to the extent that use of such instructional means meets accreditation standards. **(70-3-104.4)**

> Legislature has constitutional authority to prescribe particular standards as part of its legislative function by incorporating by reference recognized non-governmental standards and such incorporation does not constitute a delegation of power to a non-governmental agency. *March 16, 1995 (AG Op. No. 95-28).*

Section 34. Plan of Educational Development and Improvement.

A. The board of education of every elementary school district and independent school district that has not filed notification with the State Board of Education by November 1, 1990, of intent to annex or consolidate shall submit a Plan of Educational Development and Improvement to the State Board of Education by May 1, 1991. Said plan shall be submitted in compliance with rules which shall be promulgated by the State Board by April 1, 1990, for the purpose of obtaining information the State Board will need to determine whether such district can be expected to make satisfactory progress toward meeting the requirements of this act with resources available and reasonably anticipated. To the greatest possible extent, said rules shall be written to enable districts to make use of materials prepared for submittal of the districts' four-year plans pursuant to Section 3-104.2 of Title 70 of the Oklahoma Statutes and of other plans or reports required by statutes or State Board regulations. Nothing herein shall be construed as prohibiting subsequent rule changes made pursuant to the requirements of the Oklahoma Administrative Procedures Act, Section 250 et. seq. of Title 75 of the Oklahoma Statutes.

B. The State Board shall approve each such plan submitted within three (3) months of receipt of the plan. If the board rejects the plan, it shall assist the district in revising its plan or reconsidering the decision not to file notification of intent to consolidate or annex. Approval shall mean that the State Board has no reasonable doubt that the district will

achieve and maintain full compliance with all the provisions of this act on schedule. Plans approved shall be implemented by the local board. **(70-3-104.5)**

Section 35. Legislative Services Recognized in Renewal of Teaching Certificates.

The State Board of Education shall recognize full time service as a member of the staff of the House of Representatives, the Senate, or the Legislative Service Bureau in an area related to education as valid experience for renewal of the Standard Teaching Certificate. **(70-3-104.6)**

Section 35.1. Educational Services for Partial Hospitalization Programs.

A. For purposes of this act, partial hospitalization programs, day treatment programs and day hospital programs mean nonresidential settings in which school-age children are placed for psychiatric or psychological treatment which precludes their attendance at a regular public school.

B. No later than August 15, 1994, the State Board of Education shall establish standards for on-site educational services provided in partial hospitalization programs, day treatment programs, and day hospital programs for persons between the ages of three (3) and twenty-one (21) years of age. The standards shall address all areas of education including teacher certification requirements, number of hours taught, adequacy of facilities, and educational plans including plans for transition into regular school setting.

C. No facility listed in subsection A of this section shall be licensed pursuant to the provisions of this act unless the facility meets the standards for educational services established by the State Board of Education.

D. The State Board of Education shall promulgate rules to implement the provisions of this section. **(70-3-104.7)**

Section 36. Office - Books Pertaining to Office - Salary of Superintendent.

The State Superintendent of Public Instruction shall have an office at the seat of government where all books and papers pertaining to the office of the Superintendent shall be kept. The books and papers shall be kept and preserved in the office and delivered by the Superintendent of Public Instruction to a successor. The Superintendent shall file and carefully preserve in the office all official reports made to the Superintendent. The salary of the State Superintendent of Public Instruction shall be as provided for in Section 250.4 of Title 74 of the Oklahoma Statutes. **(70-3-106)**

Note: Amended by HB 2139, Sec. 5 of the 2011 Reg. Sess.

Section 37. Administrative and Executive Duties.

The State Superintendent of Public Instruction is hereby authorized to administer oaths. Upon proper request, the State Superintendent shall advise school district superintendents and technology center school district superintendents on questions as to the powers, duties and functions of school district officials, and each two (2) years shall cause to be compiled, published and distributed to boards of education and other public officials as deemed necessary the school laws in force. The school laws shall include court decisions, Attorney General's opinions and other informative matter relating to the school laws as deemed appropriate. The State Superintendent shall have control of and direct the State Department of Education and shall perform any other duties pertaining to the public school system as shall be prescribed by law or the State Board of Education. The State Superintendent may affiliate with the National Council of Chief State School Officers and any other national and state organizations as will be of service and benefit to the public school system of Oklahoma, and dues or assessments for membership therein shall be payable from any appropriation that is available for the payment of current operative expenses of the State Department of Education. **(70-3-107)**

Note: Amended by HB 2139, Sec. 6 of the 2011 Reg. Sess.

Attorney General will not give opinion on matter that is in litigation. *AG Op. March 31, 1959*

Attorney General will not give opinion as to personal liability of members of boards of education in accidents involving school district vehicles. *AG Op. April 19, 1950*

Section 37.1. Powers of State Superintendent.

The State Superintendent of Public Instruction shall have the control of and direct the State Department of Education. In addition to any other powers and duties as set forth by the Oklahoma Constitution or by law, the State Superintendent shall:

1. Give advice and make recommendations to the State Board of Education on all matters pertaining to the policies and administration of the public school system;

2. Adopt policies and make rules for the organization, operation and administration of the State Department of Education;

3. Organize and have control of the administration of the State Department of Education and any other supervisory agencies, divisions, personnel and their appointment and salaries and other operations necessary to carry out the powers, duties and functions of the State Superintendent and the State Board of Education;

4. Have authority to require the coordination of all divisions of the State Department of Education and have general supervision of all employees of the Department;

5. Present all recommendations of the Department to the State Board and require employees of the Department to present specific matters directly to the State Board; and

6. Be responsible for interpretation of policy and rules set by the State Board. **(70-3-107.1)**

Note: Enacted by HB 2139, Sec. 7 of the 2011 Reg. Sess.

Section 38. Curriculum Materials Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the State Board of Education, to be designated the "Curriculum Materials Revolving Fund." The fund shall consist of curriculum guides fees paid to the Board pursuant to law. The revolving fund shall be a continuing fund not subject to fiscal year limitations and shall be under the control and management of the administrative authority of the State Board of Education. Expenditures from said fund shall be made for the purpose of maintaining the curriculum guides process and for any other purpose as designated by the Legislature. Warrants for expenditure shall be drawn by the State Treasurer on claims by an authorized employee of the State Board of Education and approved by the Director of State Finance. **(70-3-109)**

Section 39. Adult Education Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the State Board of Education, to be designated the "Adult Education Revolving Fund." The fund shall consist of fees paid to the Board for the scoring of the writing component portion of the General Education Development test as administered by the Board pursuant to law. The revolving fund shall be a continuing fund, not subject to fiscal year limitations, and shall be under the control and management of the administrative authority of the State Board of Education. Expenditures from said fund shall be made to maintain the General Education Development testing process and for the scoring of the writing component of said test. Warrants for expenditure shall be drawn by the State Treasurer on claims by an authorized employee of the State Board of Education and approved by the Director of State Finance. **(70-3-110)**

Section 39.1. Adult Education Matching Funds.

Funds appropriated to the State Board of Education for Adult Education Matching Funds shall be provided to school districts which offer courses leading to the General Education Diploma. The State Board of Education shall promulgate rules for the distribution of the funds. **(70-3-110.1)**

Section 40. Education Oversight Board - Membership.

A. There is hereby created the Education Oversight Board. The membership of the Education Oversight Board shall consist of:

1. The Chairperson of the Education Committee of the Oklahoma House of Representatives;

2. The Chairperson of the Education Committee of the Senate;

3. Two members, who are not legislators, appointed by the Governor;

4. Two members, who are not legislators, appointed by the Speaker of the Oklahoma House of Representatives;

5. Two members, who are not legislators, appointed by the President Pro Tempore of the Senate; and

6. One member, who is not a legislator, appointed jointly by the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

The two Education Committee Chairpersons shall serve as nonvoting members of the Board as long as each holds that position in such chairperson's respective house. The terms of the appointed members shall be staggered. The terms of the seven appointed members shall begin on July 1 of the year the preceding term expires. All terms shall be for five (5) years. At least one appointed member must reside in each congressional district. However, when congressional districts are redrawn each member appointed prior to July 1 of the year in which such modification becomes effective shall complete the current term of office and appointments made after July 1 of the year in which such modification becomes effective shall be based on the redrawn districts. Appointments made after July 1 of the year in which such modification becomes effective shall be from any redrawn districts which are not represented by a board member until such time as each of the modified congressional districts are represented by a board member. If a vacancy occurs, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.

B. A chairperson and vice-chairperson shall be elected annually from the membership of the Board. A quorum which shall consist of four voting members must be present for the transaction of any business. Members shall be reimbursed for travel in the performance of their official duties in accordance with the State Travel Reimbursement Act.

C. The Education Oversight Board shall:

1. Oversee implementation of the provisions of Enrolled House Bill No. 1017 of the 1st Extraordinary Session of the 42nd Oklahoma Legislature;

2. Oversee implementation of the provisions of the Oklahoma Teacher Preparation Act; and

3. Make recommendations to the Governor and Legislature on methods to achieve an aligned, seamless system from preschool through postsecondary education.

D. The Education Oversight Board shall govern the operation of the Office of Accountability created in Section 3-117 of this title. The Secretary of Education shall be the chief executive officer of the Office of Accountability.

E. Legislators and appointed members who serve on the Education Oversight Board shall be exempt from the dual office holding prohibitions of Section 6 of Title 51 of the Oklahoma Statutes. **(70-3-116)**

Section 41.0. Educational Accountability Reform Act.

This act shall be known and may be cited as the "Educational Accountability Reform Act". **(70-3-116.1)**

Section 41.1. Office of Accountability - Creation - Support.

There is hereby created the Office of Accountability. The Oklahoma State Regents for Higher Education are hereby directed to support the Office of Accountability from the budget of the State Regents. The State Regents shall include the Office of Accountability in its budget work program to be submitted each fiscal year for the succeeding fiscal year to the Office of State Finance. Each year the Education Oversight Board shall submit a program budget for the Office of Accountability to the State Regents. Any amendments to the Office of Accountability program budget must first be approved by the Education Oversight Board. The Office of Accountability, its personnel, budget, and expenditure of funds shall be solely under the direction of the Education Oversight Board. **(70-3-117)**

Section 41.2. Secretary of Education - Powers - Duties.

The Secretary of Education shall:

1. Oversee the Office of Accountability;

2. Employ necessary personnel according to procedures established for the employment of personnel by the Office of Personnel Management;

3. Monitor the efforts of the public school districts to comply with the provisions of this act and of Senate Bill No. 183 of the 1st Session of the 42nd Oklahoma Legislature which relate to common education;

4. Identify districts not making satisfactory progress toward compliance with said provisions and recommend appropriate corrective actions to the State Board of Education concerning each district so identified;

5. Have executive responsibility for the Oklahoma Educational Indicators Program and the annual report required pursuant to Section 1210.531 of this Title;

6. Review and make periodic public comment on the progress and effectiveness of the State Board and State Department of Education, the Office of the State Superintendent of Public Instruction, other bodies created by this act, and the public schools of this state concerning the implementation of the provisions of this act and of Enrolled Senate Bill No. 183 of the 1st Session of the 42nd Oklahoma Legislature which relate to common education;

7. Analyze the revenues for all systems of education and the expenditure of common education revenue, giving close attention to expenditures for administrative expenses relating to the common schools;

8. Make reports to the public concerning these matters whenever appropriate; and

9. Submit recommendations regarding funding for education or statutory changes to the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the Governor whenever appropriate. **(70-3-118)**

Section 41.3. Performance Reviews - Office of Accountability.

A. The Office of Accountability is hereby authorized to conduct a performance review program to determine the effectiveness and efficiency of the budget and operations of school districts that have:

1. Administrative service costs which are above the expenditure limits established for school districts in Section 18-124 of this title or have total expenditures in excess of the district's adopted budget;

2. A district Academic Performance Index (API) score, calculated pursuant to Section 3-150 of this title, that is below the state average API;

3. Had a request for a performance review submitted by the Governor or the State Superintendent of Public Instruction;

4. A district student eligibility rate for free or reduced-price meals under the National School Lunch Act that is above the state average; or

5. Submitted a request for a performance review subsequent to a majority vote of the district's board of education.

B. Funds appropriated by the Legislature to the State Regents for Higher Education for the Office of Accountability may be expended to fulfill the provisions of this section. The Office of Accountability may contract with an outside entity or hire personnel to assist in the development and design of the program. The Office of Accountability may contract with outside entities to assist in conducting performance review programs. Such entities shall be chosen through a competitive bid process. Invitations to bid for the performance reviews shall be open to any public or private entity. Contracts for performance reviews shall not be done on a sole source basis.

C. 1. If a performance review is conducted as authorized pursuant to paragraphs 1 through 4 of subsection A of this section, the entire cost of the review shall be borne by the Office of Accountability.

2. If a school district requests a performance review, as authorized pursuant to paragraph 5 of subsection A of this section, twenty-five percent (25%) of the entire cost of the review shall be borne by the school district and seventy-five percent (75%) of the cost of the review shall be borne by the Office of Accountability.

3. Districts shall be selected for review by the Education Oversight Board contingent upon the availability of funding.

D. The Office of Accountability shall engage in follow-up, outreach and technical assistance to help school districts and others understand, interpret, and apply the recommendations and best practices resulting from performance reviews conducted pursuant to this section.

E. After a performance review of a school district is completed by the Office of Accountability, the school district may implement all or part of the recommendations contained in the review.

F. If a school district experiences a cost savings that is directly attributable to implementation of performance review recommendations, the cost savings shall be expended by the school district for classroom expenses. Classroom expenses shall include but are not limited to teacher salaries and purchasing textbooks, teaching material, technology and other classroom equipment. Classroom expenditures shall not include administrative services as defined in Section 18-124 of this title or for equipment or materials for administrative staff. **(70-3-118.1)**

Section 41.4. School Lunch Matching and Programs.

Funds appropriated to the State Board of Education for School Lunch Matching and School Lunch Programs shall be apportioned by the State Board of Education to each school district for the purpose of providing meals for children in compliance with the National School Lunch Act and the Child Nutrition Act of 1966 and Public Law 91-248, as they may hereafter be amended or supplemented. **(70-3-119)**

Section 41.5. Competitive Funding.

The funding of programs with state funds appropriated to the State Board of Education which are to be awarded through a competitive application process or on a contractual basis shall be subject to final approval of the State Board of Education. The Board shall be responsible for the review and evaluation of the programs throughout the term of the funding or contract. The Board shall ensure that all state funds are expended in an appropriate manner and for the purposes stated in the application or contract. **(70-3-120)**

Section 41.6. Administrative and Support Functions, Funding Requirements.

A portion of the funds appropriated to the State Board of Education for the Administrative and Support Functions of the State Department of Education shall be expended for:

1. The cost involved in administering, scoring, reporting and other incidental duties necessary to accomplish the provisions of the Oklahoma School Testing Program Act;

2. Preschool deaf education programs operated by the State Department of Education; and

3. Conducting training workshops for administrative personnel pursuant to the provisions of Section 6-110.10 of this title. **(70-3-121)**

Section 41.7. Funding Services for Visually Impaired Children.

A. A portion of the funds appropriated to the State Board of Education for Administrative and Support Functions of the State Department of Education shall be expended for the development and operation of a statewide network of services for the education of children with visual impairments. The network shall consist of itinerant services provided by qualified regional program specialists and certified orientation and mobility specialists.

B. The network of services to be provided shall include:

1. Assessment of visual function;

2. Consultation regarding assessment of academic performance;

3. Consultation regarding assessment of ophthalmological performance;

4. Consultation regarding assessment of psychological performance;

5. Consultation regarding assessment of vocational performance;

6. Assistance in the development of individualized education plans for children with visual impairments; and

7. Provisions of or consultation regarding the acquisition of special equipment for children with visual impairment. **(70-3-122)**

Section 41.8. Funding Oklahoma Education 2000 Challenge Act.

A portion of the funds appropriated for the Administrative and Support Functions of the State Department of Education shall be allocated for the purpose of implementing the reforms in the Oklahoma Education 2000 Challenge Act, enacted by Enrolled Senate Bill No. 183 of the 1st Session of the 42nd Oklahoma Legislature and Enrolled House Bill No. 1017 of the 1st Extraordinary Session of the 42nd Oklahoma Legislature. **(70-3-123)**

Section 41.9. Review of Laws.

The State Department of Education shall conduct a review of provisions of Enrolled House Bill No. 1017 of the 1st Extraordinary Session of the 42nd Oklahoma Legislature as amended, Enrolled House Bill No. 1759 of the 1st Regular Session of the 47th Oklahoma Legislature as amended, and the federal Elementary and Secondary Education Act, P.L. No. 107-110, also known as the No Child Left Behind Act of 2001, to determine if there is a duplication of or a conflict in the legislative mandates in each act. The Department shall submit a report of the review to the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the chairs of the House of Representatives Education Committee, the Senate Education Committee, the House of Representatives Appropriation and Budget Education Subcommittee, and the Senate Appropriation and Budget Education Subcommittee for review by the House and Senate staff no later than September 1, 2003. **(70-3-123.1)**

Section 42.0. Educational Deregulation Act.

This act shall be known and may be cited as the “Educational Deregulation Act”. **(70-3-124)**

Section 42.1. Purpose.

The purpose of this act is to ensure that local schools have the necessary freedom to innovate and improve education systems in order to maximize student learning and performance. Pursuant to this purpose, school districts shall be allowed to develop, make application for and implement educational improvement plans which would exempt the school district, a school site or any program, grade level, consortium of schools or school districts or other group within the district from the educational-related statutory regulations set forth in subsection D of Section 3 of this act and the State Board of Education rules. The plans submitted by school districts and approved by the State Board of Education should emphasize innovation, flexibility, and collaboration at the local school level, accountability at the state and local level, dissemination of results, and strict emphasis on improved student achievement. **(70-3-125)**

Section 42.2. Requirements for Exemption.

A. A school district may develop an educational improvement plan which includes exemption from the educational-related statutory requirements set forth in subsection C of this section and State Board of Education rules for the school district, a school site or any program, grade level, consortium of schools or school districts or other group within the school district. The board of education of the school district shall, through adoption of a resolution, approve the plan prior to application being made to the State Board of Education.

B. Each educational improvement plan approved by the State Board of Education shall include the following components:

1. A description of the educational benefits to be derived;

2. A definition of the standards of the plan;

3. Development of definitive work products, such as site improvement plans and progress reports;

4. Demonstration of collaboration by teachers, administrators, higher education representatives, students, parents/families, and the community;

5. Development and the use of an assessment mechanism to determine progress in meeting the goals and objectives of the plan;

6. Development of an in-service training plan to be provided to personnel at the site who will participate in the project;

7. Report on the results of the plan to the State Board of Education and provision of appropriate technical assistance to other school districts and the State Department of Education as required; and

8. Explanation of how the plan will affect other schools, programs or sites in the district.

C. Each educational improvement plan shall include a list of the specific educational-related statutory requirements and State Board of Education rules the school district is requesting an exemption from and why each exemption is necessary to success of the plan. The school district shall not be granted an exemption from federal educational-related requirements. A school district may request an exemption from any statutory requirement or State Board of Education rule not related to bilingual and special education programs, health and safety provisions, school finance, State Aid, pupil formula weights, teacher salary and teacher retirement, the Oklahoma School Testing Program, the Oklahoma Educational Indicators Program and the teacher preparation, examination, licensure, certification, residency and professional development system. The State Board of Education may grant district-wide exemptions from certification requirements for Library Media Specialists to districts experiencing a shortage in this area. The State Board of Education may grant an exemption from certification requirements for superintendents to any district with an unweighted average daily membership over twenty-five thousand (25,000). **(70-3-126)**

Section 42.3. Procedures for Implementation and Termination.

A. Prior to the adoption of a resolution by the local board of education as required in subsection A of Section 3-126 of this title, the local board of education shall provide for a period of public review and comment on the proposed educational improvement plan and shall notify and allow comment from the district bargaining agent of the plan. If no bargaining agent exists for that district, the teachers directly effected shall be notified and allowed to make comments. All comments, recommendations and objections made by the bargaining agent and others to the local board of education shall be forwarded to the State Board of Education for consideration prior to review of the plan.

B. Each educational improvement plan shall be approved by the State Board of Education before implementation.

C. Approval of a plan shall be for no longer than three (3) years. If a plan is approved, the school district shall be required to submit an annual report and the Board shall provide for an annual assessment of the plan.

D. The Board shall notify the Speaker of the House of Representatives and the President Pro Tempore of the Senate of the approval of plans on a quarterly basis and shall provide the Speaker and the President Pro Tempore with copies of the annual reports and assessments.

E. If the Board determines through the annual assessment process that the school district is not complying with the requirements of the Educational Deregulation Act or is not meeting the goals of the plan, it shall first provide notice to the district of its findings. If the school district does not come into compliance or take action to meet the goals of the plan, the Board shall withdraw approval and terminate the plan. **(70-3-127)**

Section 42.4. State Board to Promulgate Rules.

The State Board of Education shall promulgate rules to implement the provisions of this act. **(70-3-128)**

Section 43.0. Empowered Schools and School Districts Act.

This act shall be known and may be cited as the "Empowered Schools and School Districts Act". **(70-3-129.1)**

Section 43.1. Empowered Schools – Definitions.

As used in the Empowered Schools and School Districts Act:

1. "Empowered school" means a school in which a school district board of education implements an empowerment plan pursuant to Section 3 of this act;

2. "Empowered school zone" means a group of schools of a school district that share common interests, such as geographical location or educational focus, or that sequentially serve classes of students as they progress through elementary and secondary education and in which a school district board of education implements an empowerment plan pursuant to Section 3 of this act;

3. "Empowered district" means a school district in which all schools of a school district are included in an empowerment plan implemented by the school district board of education pursuant to Section 3 of this act; and

4. "State Board" means the State Board of Education. **(70-3-129.2)**

Section 43.2. Empowered Schools – Empowerment Plans.

A. 1. A public school, zone, or district may submit to its school district board of education an empowerment plan as described in subsection C of this section.

2. A school district board of education shall receive and review each empowerment plan submitted pursuant to paragraph 1 of this subsection. The school district board of education shall either approve or disapprove the empowerment plan within sixty (60) days after receiving the plan.

3. If the school district board of education rejects the plan, it shall provide to the public school, zone, or district that submitted the plan a written explanation of the basis for its decision. A public school, zone, or district may resubmit an amended empowerment plan at any time after denial.

4. If the school district board of education approves the plan, it shall proceed to seek approval of the school, zone, or district as an empowered school, zone, or district pursuant to Section 6 of this act.

B. A school district board of education may initiate and collaborate with one or more public schools of the school district to create one or more empowerment plans, as described in subsection C of this section. In creating an empowerment plan the school district board of education shall ensure that each public school that would be affected by the plan has the opportunity to participate in the creation of the plan.

C. Each empowerment plan shall include the following information:

1. A statement of the mission of the school, zone, or district and why designation as an empowered school, zone, or district would enhance the ability of the school, zone, or district to achieve its mission;

2. A description of the innovations the school, zone, or district would implement, which may include, but not be limited to, innovations in school staffing, curriculum and assessment, class scheduling, use of financial and other resources, and faculty recruitment, employment, evaluation, and compensation;

3. A listing of the programs, policies, or operational documents within the school, zone, or district that would be affected by the innovations identified by the school, zone, or district and the manner in which they would be affected. The programs, policies, or operational documents may include, but not be limited to:

a. the research-based educational program to be implemented,

b. the length of school day and school year,

c. the student promotion and graduation policies to be implemented,

d. the assessment plan,

e. the proposed budget, and

f. the proposed staffing plan;

4. A description of any statutory, regulatory, or district policy requirements that would need to be waived for the school, zone, or district to implement the identified innovations;

5. A description of any provision of the collective bargaining agreement in effect for the personnel at the school, zone, or district that would need to be waived for the school, zone, or district to implement its identified innovation;

6. An identification of the improvements in academic performance that the school, zone, or district expects to achieve in implementing the innovations;

7. An estimate of the cost savings and increased efficiencies, if any, the school, zone, or district expects to achieve in implementing the identified innovations;

8. Evidence that both a majority of the administrators and a majority of the teachers employed at the school, zone, or district approve the empowerment plan and consent to the designation as an empowered school, zone, or district. The determination of approval and consent of the plan shall be obtained by means of a secret ballot vote;

9. A statement of the level of support for designation as an empowered school, zone, or district demonstrated by the other persons employed at the school, zone, or district, the students and parents of students enrolled in the school, zone, or district, and the community surrounding the school, zone, or district; and

10. Any additional information required by the school district board of education of the school district in which the empowerment plan would be implemented.

D. Each plan for creating an empowered school zone or district whether submitted by a group of public schools or created by a school district board of education through collaboration with a group of public schools, shall also include the following additional information:

1. A description of how innovations in the schools in the empowered school zone or district would be integrated to achieve results that would be less likely to be accomplished by each school working alone; and

2. An estimate of any economies of scale that would be achieved by innovations implemented jointly by the schools within the empowered school zone or district.

E. No employee of a school, zone, or district shall be discriminated against by the school district board of education, the superintendent of the school district, or any other administrative officer of the school district or by any employee organization, an officer of the organization, or a member of the organization for exercising or not exercising the rights provided for under the Empowered Schools and School Districts Act. An employee of a school district or an officer or member of an employee organization shall be prohibited from impeding, restraining or coercing an employee of a school, zone or district from exercising the rights provided for under the act or causing an employer to impede, restrain or coerce an employee from exercising the rights provided for under the act. **(70-3-129.3)**

Section 43.3. Empowered Schools – Accountability.

In considering or creating an empowerment plan each school district board of education is encouraged to consider innovations in the following areas:

1. Curriculum and academic standards and assessments;

2. Accountability measures, including, but not limited to, expanding the use of a variety of accountability measures to more accurately present a complete measure of student learning and accomplishment. The accountability measures adopted may include, but not be limited to:

a. use of graduation or exit examinations,

b. use of end-of-course examinations,

c. use of formative assessments which measure student growth over time,

d. use of the Explore and Plan assessments,

e. measuring the percentage of students continuing into higher education, and

f. measuring the percentage of students simultaneously obtaining a high school diploma and an associate's degree or a career and technical education certificate;

3. Provision of services, including, but not limited to, special education services, services for gifted and talented students, services for limited English proficient students, educational services for students at risk of academic failure, expulsion, or dropping out; and support services provided by the Department of Human Services or county social services agencies;

4. Teacher recruitment, training, preparation, and professional development;

5. Teacher employment;

6. Performance expectations and evaluation procedures for teachers and principals;

7. Compensation for teachers, principals, and other school building personnel, including, but not limited to, performance pay plans, total compensation plans, and other innovations with regard to retirement and other benefits;

8. School governance and the roles, responsibilities, and expectations of principals in empowered schools or schools within an empowered school zone; and

9. Preparation and counseling of students for transition to postsecondary education or the workforce. **(70-3-129.4)**

Section 43.4. Empowered Schools – Acceptance of Donations.

Each public school and each school district board of education may seek and accept public and private gifts, grants, and donations to offset the costs of developing and implementing empowerment plans. **(70-3-129.5)**

Section 43.5. Empowered Schools – State Board Approval.

A. Each school district board of education shall submit approved school, zone, or district empowerment plans to the State Board of Education.

B. 1. Within sixty (60) days after receiving an empowerment plan for a school, zone, or district, the State Board shall approve the empowerment plan unless the State Board concludes that the submitted plan:

a. is likely to result in a decrease in academic achievement in the empowered school, zone, or district, or

b. is not fiscally feasible.

2. If the State Board does not approve the empowerment plan, it shall provide to the school district board of education a written explanation of the basis for its decision. The school district board of education may resubmit an amended empowerment plan and seek approval of the empowerment plan at any time after denial. **(70-3-129.6)**

Section 43.6. Empowered Schools – Waiver of Certain Rules.

A. Upon approval of an empowerment plan for a school, zone, or district, the State Board of Education shall waive any statutes or rules specified in the approved empowerment plan as they pertain to the empowered school, zone, or district; except that the State Board shall not waive requirements for the following:

1. School district employee participation in the Teachers' Retirement System of Oklahoma;

2. The Oklahoma School Testing Program Act;

3. The requirement for students enrolled in the school district to demonstrate mastery of the state academic content standards as set forth in Section 1210.523 of Title 70 of the Oklahoma Statutes;

4. The accountability system as set forth in Section 1210.541 of Title 70 of the Oklahoma Statutes; and

5. The federal "No Child Left Behind Act of 2001", 20 U.S.C., Section 6301 et seq.

B. Except as otherwise provided in this subsection, the State Board of Education shall not waive any statute or rules specified in the approved empowerment plan for an empowered school, zone or district if the statute or rule relates to the implementation of or requirements for any program or grant for which the school district is receiving funds appropriated for the support of public school activities. The State Board of Education may waive any statute or rule that relates to the implementation of or requirements for any program or grant only if the funding for the program or grant is no longer allocated to the school district.

C. Designation as an empowered school, zone, or district shall not affect the allocation of State Aid funding for the school district as calculated pursuant to Section 18-200.1 of Title 70 of the Oklahoma Statutes.

D. 1. If the school district board of education for an empowered school, zone, or district revises an empowerment plan as provided in Section 9 of this act, the school district board of education may request, and the State Board shall grant, additional waivers or changes to existing waivers as necessary to accommodate the revisions to the empowerment plan unless the State Board concludes that the waivers or changes to existing waivers would:

a. be likely to result in a decrease in academic achievement in the empowered school, zone, or district, or

b. not be fiscally feasible.

In requesting a new waiver or a change to an existing waiver, the school district board of education shall demonstrate the consent of a majority of the teachers and a majority of the administrators employed at each school that is affected by the new or changed waiver.

2. Except as otherwise provided in paragraph 1 of this subsection, a waiver that is granted pursuant to this section shall continue to apply to a school, zone, or district as long as the school, zone, or district continues to be designated as an empowered school, zone, or district. **(70-3-129.7)**

Section 43.7. Empowered Schools – Waiver of Collective Bargaining Provisions.

A. 1. On and after the date on which the State Board of Education approves a school, zone, or district as an empowered school, zone, or district, any collective bargaining agreement of the empowered school, zone, or district shall include a provision that allows each empowered school, zone, or district to waive any provisions of the collective bargaining agreement identified in the empowerment plan as needing to be waived for the empowered school, zone, or district to implement its identified innovations.

2. For an empowered school, waiver of one or more of the provisions of the collective bargaining agreement shall be based on obtaining the approval, by means of a secret ballot vote, of at least sixty percent (60%) of the members of the collective bargaining unit who are employed at the empowered school.

3. For an empowered school zone or district, waiver of one or more of the provisions of the collective bargaining agreement shall be based on obtaining, at each school included in the empowered school zone or district, the approval, by means of a secret ballot vote, of at least sixty percent (60%) of the members of the collective bargaining unit who are employed in the zone or district. The school district board of education for the empowered zone or district may choose to revise the plan for creating an empowered zone or district to remove from the zone or district any school in which at least sixty percent (60%) of the members of the collective bargaining unit employed at the school do not vote to waive the identified provisions of the collective bargaining agreement.

4. If a school district board of education, in collaboration with the empowered school, zone, or district, revises the empowerment plan, as provided in Section 9 of this act, and the revisions include changes to the identified provisions of the collective bargaining agreement that need to be waived to implement the innovations that are included in the empowerment plan, the school district board of education shall seek such additional waivers or revision or revocation of the existing waivers of provisions of the collective bargaining agreement as are necessary to implement the revised empowerment plan. Any changes to waivers, or additional waivers, of the identified provisions of the collective bargaining agreement shall be subject to approval in the same manner as provided in paragraphs 2 and 3 of this subsection for the initial approval of waivers of provisions of the collective bargaining agreement.

5. Except as otherwise provided in paragraph 4 of this subsection, waiver of identified provisions of a collective bargaining agreement for an empowered school, zone, or district pursuant to this subsection shall continue as long as the school, zone, or district remains an empowered school, zone, or district. A waiver approved pursuant to this subsection shall continue to apply to any substantially similar provision that is included in a new or renewed collective bargaining agreement for the schools of the empowered school, zone, or district.

B. A person who is a member of the collective bargaining unit and is employed at an empowered school or zone may request a transfer to another public school in the district. The school district board of education shall make every reasonable effort to accommodate the request of the person. **(70-3-129.8)**

Section 43.8. Empowered Schools – Performance Review.

A. Three (3) years after the State Board of Education approves an empowerment plan for a school, zone, or district, and every three (3) years thereafter, the school district board of education shall review the level of performance of the empowered school, zone, or district and determine whether the empowered school, zone, or district is achieving or making adequate progress toward achieving the academic performance results identified in the empowerment plan of the school, zone, or district. The school district board of education, in collaboration with the empowered school, zone, or district, may revise the empowerment plan as necessary to improve or continue to improve academic performance at the empowered school, zone, or district. Any revisions to the empowerment plan shall require the consent of a majority of the teachers and a majority of the administrators employed at each affected public school.

B. 1. Following review of an empowered school's performance, if a school district board of education finds that the academic performance of students enrolled in the empowered school is not improving at a sufficient rate, the district school board may revoke the empowered status of the school.

2. Following review of the performance of an empowered school zone or district, if a school district board of education finds that the academic performance of students enrolled in one or more of the public schools included in the empowered school zone or district is not improving at a sufficient rate, the school district board of education may remove the underperforming public school or schools from the empowered school zone or district or may revoke the designation of the empowered school zone or district. **(70-3-129.9)**

Section 43.9. Empowered Schools – State Board Report.

A. By March 1, 2011, and each year thereafter, the State Board of Education shall submit to the Governor, the President Pro Tempore of the State Senate, the Speaker of the House of Representatives, and to the members of the education committees of the Senate and the House of Representatives, or any successor committees, a report concerning the empowered districts. At a minimum, the report shall include:

1. The number of school districts designated as empowered districts in the preceding academic year and the total number of empowered districts in the state;

2. The number of empowered schools and the number of empowered school zones, including the number of schools in the zone, in each empowered district and the number of students served in the empowered schools and empowered school zones, expressed as a total number and as a percentage of the students enrolled in the empowered district;

3. An overview of the innovations implemented in each empowered school, zone, and district;

4. An overview of the academic performance of the students served in empowered schools, zones, and districts, including a comparison between the academic performance of the students before and since implementation of the innovations;

5. Any recommendations for legislative changes based on the innovations implemented or to further enhance the ability of school district boards of education to implement innovations; and

6. Any additional information requested by the Governor or a member of the Legislature.

B. The State Superintendent of Public Instruction shall ensure that the annual report submitted pursuant to this section is promptly posted on the State Department of Education website. **(70-3-129.10)**

Section 44.0. Oklahoma Charter Schools Act.

This act shall be known and may be cited as the "Oklahoma Charter Schools Act". **(70-3-130)**

Section 44.1. Purpose.

A. The purpose of the Oklahoma Charter Schools Act is to:

1. Improve student learning;

2. Increase learning opportunities for students;

3. Encourage the use of different and innovative teaching methods;

4. Provide additional academic choices for parents and students;

5. Require the measurement of student learning and create different and innovative forms of measuring student learning;

6. Establish new forms of accountability for schools; and

7. Create new professional opportunities for teachers and administrators including the opportunity to be responsible for the learning program at the school site.

B. The purpose of the Oklahoma Charter Schools Act is not to provide a means by which to keep open a school that may otherwise be closed. Applicants applying for a charter for a school which is to be otherwise closed shall be required to prove that conversion to a charter school fulfills the purposes of the act independent of closing the school. Nothing in this section shall be interpreted to preclude a school designated as a "high challenge school" from becoming a charter school. **(70-3-131)**

Section 44.2. Application of Charter Schools Act.

A. The Oklahoma Charter Schools Act shall apply only to charter schools formed and operated under the provisions of the act. Charter schools shall be sponsored only as follows:

1. By a school district with an average daily membership of five thousand (5,000) or more and which all or part of the school district is located in a county having more than five hundred thousand (500,000) population according to the latest Federal Decennial Census;

2. By a school district which has a school site listed on the school improvement list as determined by the State Board of Education pursuant to the Elementary and Secondary Education Act of 1965, as amended or reauthorized;

3. By a technology center school district if the charter school is located in a school district served by the technology center school district and the school district has an average daily membership of five thousand (5,000) or more and which all or part of the school district is located in a county having more than five hundred thousand (500,000) population according to the latest Federal Decennial Census;

4. By a technology center school district if the charter school is located in a school district served by the technology center school district and the school district has a school site listed on the school improvement list as determined by the State Board of Education pursuant to the Elementary and Secondary Education Act of 1965, as amended or reauthorized;

5. By a comprehensive or regional institution that is a member of The Oklahoma State System of Higher Education if the charter school is located in a school district that has an average daily membership of five thousand (5,000) or more and which all or part of the school district is located in a county having more than five hundred thousand (500,000) population according to the latest Federal Decennial Census. In addition, the institution shall have a teacher education program accredited by the Oklahoma Commission for Teacher Preparation and have a branch campus or constituent agency physically located within the school district in which the charter school is located;

6. By a comprehensive or regional institution that is a member of the Oklahoma State System of Higher Education if the charter school is located in a school district that has a school site listed on the school improvement list as determined by the State Board of Education pursuant to the Elementary and Secondary Education Act of 1965, as amended or reauthorized. In addition, the institution shall have a teacher education program accredited by the Oklahoma Commission for Teacher Preparation and have a branch campus or constituent agency physically located within the school district in which the charter school is located;

7. By a federally recognized Indian tribe, operating a high school under the authority of the Bureau of Indian Affairs as of the effective date of this act, if the charter school is for the purpose of demonstrating native language immersion instruction, and is located within its former reservation or treaty area boundaries. For purposes of this paragraph, native language immersion instruction shall require that educational instruction and other activities conducted at the school site are primarily conducted in the native language; or

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

B. Any charter or enterprise school operating in the state pursuant to an agreement with the board of education of a school district on July 1, 1999, may continue to operate pursuant to that agreement or may contract with the board of education of the school district pursuant to the Oklahoma Charter Schools Act. Nothing in the Oklahoma Charter Schools Act shall prohibit a school district from applying for exemptions from certain education-related statutory requirements as provided for in the Educational Deregulation Act.

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

D. A charter school may consist of a new school site, new school sites or all or any portion of an existing school site. An entire school district may not become a charter school site. **(70-3-132)**

Note: Amended by SB 278, Sec. 1 & SB 553, Sec. 34 & 35 of the 2011 Reg. Sess.

Section 44.3. Repealed.

Section 44.4. Written Proposal.

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

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

1. A mission statement for the charter school;

2. A description of the organizational structure and the governing body of the charter school;

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

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

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

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

7. A description of the grades being served;

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

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

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

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

D. The sponsor of a charter school is the board of education of a school district, the board of education of a technology center school district, a higher education institution, the State Board of Education, or a federally recognized Indian tribe which meets the criteria established in Section 3-132 of this title. Any board of education of a school district in the state may sponsor one or more charter schools. The physical location of a charter school sponsored by a board of education of a school district or a technology center school district shall be within the boundaries of the sponsoring school district. The physical location of a charter school sponsored by the State Board of Education when the applicant of the charter school is the Office of Juvenile Affairs shall be where an Office of Juvenile Affairs facility for youth is located.

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

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

G. If a proposed sponsor rejects the revised application for a charter school, the applicant may proceed to mediation or binding arbitration or both mediation and binding arbitration as provided in the Dispute Resolution Act and the rules promulgated pursuant thereto. The applicant shall contact the early settlement program for the county in which the charter school would be located. If the parties proceed to binding arbitration, a panel of three arbitrators shall be appointed by the director of the early settlement program handling the dispute. The proposed sponsor shall pay the cost for any mediation or arbitration requested pursuant to this section.

H. If a board of education of a technology center school district, a higher education institution, the State Board of Education, or a federally recognized Indian tribe accepts sponsorship of a charter school, the administrative, fiscal and oversight responsibilities of the technology center school district, the higher education institution, or the federally recognized Indian tribe shall be listed in the contract. No responsibilities shall be delegated to a school district unless the local school district agrees to assume the responsibilities. **(70-3-134)**

Note: Amended by SB 278, Sec. 2 & SB 553, Sec. 36 & 37 of the 2011 Reg. Sess.

While binding arbitration is provided for in the Charter Schools Act, it is legally impossible for it to take place in the absence of rules and regulations governing the procedure provided by the Dispute Resolution Act. The Dispute Resolution Act contains no provisions for binding arbitration. *Pentagon Academy v. ISD No. 1 of Tulsa County*, 2003 OK 98, 82 P.3d 587.

The Oklahoma Charter Schools Act does not violate the doctrine that the Legislature may not delegate its powers to private organizations or persons, as the Legislature retains its authority to provide for a free public education as required by Okla. Const. art. XIII, § 1, and as the Act contains specific statutory standards for charter schools. *August 22, 2007 (AG Op. No. 07-23)*

Section 44.5. Written Contract for Charter School.

A. The sponsor of a charter school shall enter into a written contract with the governing body of the charter school. The contract shall incorporate the provisions of the charter of the charter school and contain, but shall not be limited to, the following provisions:

1. A description of the program to be offered by the school which complies with the purposes outlined in Section 11 of this act;

2. Admission policies and procedures;

3. Management and administration of the charter school;

4. Requirements and procedures for program and financial audits;

5. A description of how the charter school will comply with the charter requirements set forth in the Oklahoma Charter Schools Act;

6. Assumption of liability by the charter school; and

7. The term of the contract.

B. A charter school shall not enter into an employment contract with any teacher or other personnel until the charter school has a contract with a sponsoring school district. The employment contract shall set forth the personnel policies of the charter school, including, but not limited to, policies related to certification, professional development evaluation, suspension, dismissal and nonreemployment, sick leave, personal business leave, emergency leave, and family and medical leave. The contract shall also specifically set forth the salary, hours, fringe benefits, and work conditions. The contract may provide for employer-employee bargaining, but the charter school shall not be required to comply with the provisions of Sections 509.1 through 509.10 of Title 70 of the Oklahoma Statutes. The contract shall conform to all applicable provisions set forth in Section 11 of this act.

Upon contracting with any teacher or other personnel, the governing body of the charter school shall, in writing, disclose employment rights of the employees in the event the charter school closes or the charter is not renewed. **(70-3-135)**

Section 44.6. Charter Requirements.

A. A charter school shall adopt a charter which will ensure compliance with the following:

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

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

3. The charter school may provide a comprehensive program of instruction for a pre kindergarten program, a kindergarten program or any grade between grades one and twelve. Instruction may be provided to all persons between the ages of four (4) and twenty-one (21) years. A charter school may offer a curriculum which emphasizes a specific learning philosophy or style or certain subject areas such as mathematics, science, fine arts, performance arts, or foreign language. The charter of a charter school which offers grades nine through twelve shall specifically address whether the charter school will comply with the graduation requirements established in Section 11-103.6 of this title. No charter school shall be chartered for the purpose of offering a curriculum for deaf or blind students that is the same or similar to the curriculum being provided by or for educating deaf or blind students that are being served by the Oklahoma School for the Blind or the Oklahoma School for the Deaf;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

E. The governing body of a charter school may not levy taxes or issue bonds.

F. The charter of a charter school shall include a provision specifying the method or methods to be employed for disposing of real and personal property acquired by the charter school upon expiration or termination of the charter or failure of the charter school to continue operations. Except as otherwise provided, any real or personal property purchased with state or local funds shall be retained by the sponsoring school district. If a charter school that was previously sponsored by the board of education of a school district continues operation within the school district under

a new charter sponsored by an entity authorized pursuant to Section 3-132 of this title, the charter school may retain any personal property purchased with state or local funds for use in the operation of the charter school until termination of the new charter or failure of the charter school to continue operations. **(70-3-136)**

Charter schools are not required to offer alternative education programs. *February 15, 2000 (AG Op. No. 00-12).*

Charter schools are exempt from mandated core curriculum requirements. *September 27, 1999 (AG Op. No. 99-64).*

Section 44.7. Term of Contract, Renewal, and Termination.

A. An approved contract for a charter school shall be effective for not longer than five (5) years from the first day of operation. Prior to the beginning of the fifth year of operation, the charter school may apply for renewal of the contract with the sponsor. The sponsor may deny the request for renewal if it determines the charter school has failed to complete the obligations of the contract or comply with the provisions of the Oklahoma Charter Schools Act. A sponsor shall give written notice of its intent to deny the request for renewal at least eight (8) months prior to expiration of the contract.

B. If a sponsor denies a request for renewal, the governing board may proceed to mediation or binding arbitration or both as provided for in subsection G of Section 3-134 of this title.

C. A sponsor may terminate a contract during the term of the contract for failure to meet the requirements for student performance contained in the contract, failure to meet the standards of fiscal management, violations of the law, or other good cause. The sponsor shall give at least ninety (90) days' written notice to the governing board prior to terminating the contract. The governing board may request, in writing, an informal hearing before the sponsor within fourteen (14) days of receiving notice. The sponsor shall conduct an informal hearing before taking action. If a sponsor decides to terminate a contract, the governing board may proceed to mediation or binding arbitration or both as provided for in subsection G of Section 3-134 of this title.

D. If a contract is not renewed, the governing board of the charter school may submit an application to a proposed new sponsor as provided for in Section 3-134 of this title.

E. If a contract is not renewed or is terminated according to this section, a student who attended the charter school may enroll in the resident school district of the student or may apply for a transfer in accordance with Section 8-103 of this title. **(70-3-137)**

Section 44.8. Reprisal Prohibited for Involvement with Application.

A board of education of a school district or an employee of the district who has control over personnel actions shall not take unlawful reprisal action against an employee of the school district for the reason that the employee is directly or indirectly involved in an application to establish a charter school. As used in this section, "unlawful reprisal" means an action that is taken by a board of education or a school district employee as a direct result of a lawful application to establish a charter school and that is adverse to an employee or an education program**. (70-3-138)**

Section 44.9. Rights of Teachers Returning to Sponsoring School District.

A. A sponsoring school district shall determine whether a teacher who is employed by or teaching at a charter school and who was previously employed as a teacher at the sponsoring public school district shall not lose any right of salary status or any other benefit provided by law due to teaching at a charter school upon returning to the sponsoring public school district to teach.

B. A teacher who is employed by or teaching at a charter school and who submits an employment application to the school district where the teacher was employed immediately before employment by or at a charter school shall be given employment preference by the school district if:

1. The teacher submits an employment application to the school district no later than three (3) years after ceasing employment with the school district; and

2. A suitable position is available at the school district. **(70-3-139)**

Section 44.10. Admission and Enrollment of Students.

A. Except for a charter school sponsored by the State Board of Education, a charter school shall enroll those students whose legal residence is within the boundaries of the school district in which the charter school is located and who submit a timely application, or those students who transfer to the district in which the charter school is located in accordance with Section 8-103 or 8-104 of this title, unless the number of applications exceeds the capacity of a program, class, grade level, or building. Students who reside in a school district where a charter school is located shall not be required to obtain a transfer in order to attend a charter school in the school district of residence. If capacity is insufficient to enroll all eligible students, the charter school shall select students through a lottery selection process. Except for a charter school sponsored by the State Board of Education, a charter school shall give enrollment preference to eligible students who reside within the boundaries of the school district in which the charter school is located. Except for a charter school sponsored by the State Board of Education, a charter school created after the effective date of this act shall give enrollment preference to eligible students who reside within the boundaries of the school district in which the charter school is located and who attend a school site listed on the school improvement list as determined by the State Board of Education pursuant to the Elementary and Secondary Education Act of 1965, as amended or reauthorized. A charter school may limit admission to students within a given age group or grade level. A charter school sponsored by the State Board of Education when the applicant of the charter school is the Office of Juvenile Affairs shall limit admission to youth that are in the custody or supervision of the Office of Juvenile Affairs.

B. Except for a charter school sponsored by the State Board of Education, a charter school shall admit students who reside in the attendance area of a school or in a school district that is under a court order of desegregation or that is a party to an agreement with the United States Department of Education Office for Civil Rights directed towards mediating alleged or proven racial discrimination unless notice is received from the resident school district that admission of the student would violate the court order or agreement.

C. A charter school may designate a specific geographic area within the school district in which the charter school is located as an academic enterprise zone and may limit admissions to students who reside within that area. An academic enterprise zone shall be a geographic area in which sixty percent (60%) or more of the children who reside in the area qualify for the free or reduced school lunch program.

D. Except as provided in subsections B and C of this section, a charter school shall not limit admission based on ethnicity, national origin, gender, income level, disabling condition, proficiency in the English language, measures of achievement, aptitude, or athletic ability. **(70-3-140)**

Note: Amended by SB 278, Sec. 3, SB 445, Sec. 1 & SB 553, Sec. 38 of the 2011 Reg. Sess.

Section 44.11. Transportation.

A. Transportation shall be provided by the charter school in accordance with Sections 9-101 through 9-118 of Title 70 of the Oklahoma Statutes and only within the transportation boundaries of the school district in which the charter school is located.

B. A charter school shall provide the parent or guardian information regarding transportation at the time the student enrolls in the charter school. **(70-3-141)**

Section 44.12. Funding of Charter Schools Section.

A. For purposes of funding, a charter school sponsored by a board of education of a school district shall be considered a site within the school district in which the charter school is located. The student membership of the charter school shall be considered separate from the student membership of the district in which the charter school is located for the purpose of calculating weighted average daily membership pursuant to Section 18-201.1 of this title and State Aid pursuant to Section 18-200.1 of this title. For charter schools sponsored by a board of education of a school district, the sum of the separate calculations for the charter school and the school district shall be used to determine the total State Aid allocation for the district in which the charter school is located. A charter school shall receive from the sponsoring school district, the State Aid allocation and any other state-appropriated revenue generated by its students for the applicable year, less up to five percent (5%) of the State Aid allocation, which may be retained by the school district as a fee for administrative services rendered. For charter schools sponsored by the board of education of a technology center

school district, a higher education institution, the State Board of Education, or a federally recognized Indian tribe, the State Aid allocation for the charter school shall be distributed by the State Board of Education and not more than five percent (5%) of the State Aid allocation may be charged by the sponsor as a fee for administrative services rendered. The State Board of Education shall determine the policy and procedure for making payments to a charter school. The fee for administrative services as authorized in this subsection shall only be assessed on the State Aid allocation amount and shall not be assessed on any other appropriated amounts.

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

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

D. A charter school, in addition to the money received from the state, may receive money from any other source. Any unexpended nonstate funds, excluding local revenue, may be reserved and used for future purposes.

E. Any charter school which chooses to lease property shall be eligible to receive current government lease rates. **(70-3-142)**

Note: Amended by SB 256, Sec. 1 & SB 553, Sec. 39 & 40 of the 2011 Reg. Sess.

Section 44.13. Annual Report.

The State Board of Education shall issue an annual report to the Legislature and the Governor outlining the status of charter schools in the state. Each charter school shall annually file a report with the Office of Accountability. The report shall include such information as requested by the Office of Accountability, including but not limited to information on enrollment, testing, curriculum, finances and employees. **(70-3-143)**

Section 44.14. Charter Schools Incentive Fund.

A. There is hereby created in the State Treasury a fund to be designated the "Charter Schools Incentive Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies appropriated by the Legislature, gifts, grants, devises and donations from any public or private source. The State Department of Education shall administer the fund for the purpose of providing financial support to charter school applicants and charter schools for start-up costs and costs associated with renovating or remodeling existing buildings and structures for use by a charter school. The State Department of Education is authorized to allocate funds on a per-pupil basis for purposes of providing matching funds for the federal State Charter School Facilities Incentive Grants Program created pursuant to the No Child Left Behind Act, 20 USCA, Section 7221d.

B. The State Board of Education shall adopt rules to implement the provisions of this section, including application and notification requirements. **(70-3-144)**

Section 45.0. Academic Performance Index.

A. The State Board of Education shall develop an Academic Performance Index (API) to be used to measure performance of schools, including the academic performance of students. The index shall consist of a variety of indicators including, but not limited to:

1. Attendance rates for students;

2. Dropout rates;

3. Results of the Oklahoma School Testing Program administered pursuant to Section 1210.508 of this title;

4. Advanced Placement participation;

5. Graduation rates for secondary school students;

6. Scores of the American College Test (ACT); and

7. College remediation rates.

B. The data collected for the API shall be disaggregated, when available, by socioeconomic status and ethnic group. Oklahoma School Testing Program results shall constitute no less than sixty percent (60%) of the value of the index.

C. Based on the API, the State Board of Education shall adopt expected annual percentage growth targets for the state level, school districts, and all school sites based on their API baseline score. The minimum percentage growth target shall be five percent (5%) annually. However, the State Board of Education may set differential growth targets based on grade level of instruction. **(70-3-150)**

Section 45.1. Academic Performance Index Reports.

A. On or before December 31, 1999, the State Board of Education shall file a report with the Governor and the Legislature setting out the plan for establishing the Academic Performance Index. Thereafter, on or before December 31 and every year thereafter the Board shall file a report with the Governor and the Legislature on the state, district, and site results of this program.

B. On or before July 13, 2001, the State Board of Education shall file a report with the Governor and the Legislature setting out the draft formula to be used for the Academic Performance Index.

C. On or before September 30, 2001, the State Board of Education shall file a report with the Governor and the Legislature setting out the formula to be used for the Academic Performance Index.

D. On or before February 28, 2002, the State Board of Education shall file a report with the Governor and the Legislature containing the final baseline Academic Performance Index.

E. The State Department of Education shall notify school districts of the status of implementation of the Academic Performance Index, including the deadlines and information to be reported as required in subsections B, C and D of this section. **(70 3-151)**

Section 45.2. School Graduation Rates.

A. For purposes of establishing a uniform and accurate definition of high school graduation rate for school districts and secondary schools in the state, the State Board of Education shall adopt and implement a four-year adjusted cohort graduation rate and an extended-year adjusted cohort graduation rate. The Board shall utilize and report the four-year adjusted cohort graduation rate and the extended-year adjusted cohort graduation rate at the secondary school site, the school district and the state level, and the graduation rates shall be reported in the aggregate as well as disaggregated by subgroups as required in the Elementary and Secondary Education Act of 2001 (ESEA), P.L. No. 107-110, also known as the No Child Left Behind Act of 2001.

B. The Board shall use the four-year adjusted cohort graduation rate for purposes of determining the high school graduation rate indicator for the Academic Performance Index as established in Section 3-150 of Title 70 of the Oklahoma Statutes beginning with state and district report cards providing results of assessments administered in the 2011-2012 school year. The Board shall use the four-year adjusted cohort graduation rate for establishing the high school graduation rate for measuring alternate year percentage growth targets as set forth in Section 2 of this act beginning with the 2012-2013 school year.

C. The four-year adjusted cohort graduation rate shall be defined as the number of students who graduate in four (4) years with a standard high school diploma divided by the number of students who entered high school four (4) years

earlier, adjusted for transfers in and out of the school, émigrés and deceased students. Students who graduate in four (4) years shall include students who earn a standard high school diploma at the end of their fourth year, before the end of their fourth year, and during a summer session immediately following their fourth year. To remove a student from a cohort, a school district shall confirm in writing or by electronic means that a student has transferred out of the school site or school district, has emigrated to another country or is deceased. For a student who transfers out of a school site or school district, the written or electronic confirmation shall be official and document that the student has enrolled in another school site or school district or in an educational program that culminates in a standard high school diploma. Students who graduate with a credential other than a standard high school diploma or a higher diploma, including but not limited to a General Educational Development (GED) credential, certificate of attendance, or any alternative award, shall not be included in the graduation rate calculation as set forth in this subsection as a student who graduated in four (4) years with a standard high school diploma but shall be included in the number of students who entered high school four (4) years earlier.

D. The extended-year adjusted cohort graduation rate shall be defined as the number of students who graduate in four (4) years or five (5) years with a standard high school diploma divided by the number of students who form the adjusted cohort for the four-year graduation rate as calculated as provided for in subsection C of this section, provided that the adjustments add to the cohort all students who transfer into the cohort by the end of the year of graduation being considered and subtract students who transfer out, emigrate to another country or are deceased by the end of that year. The extended-year adjusted cohort graduation rate shall be reported separately from the four-year adjusted cohort graduation rate. **(70-3-151.1)**

Note: Enacted by SB 2, Sec. 1 of the 2011 Reg. Sess.

Section 45.3. Growth Targets – Graduation Rates.

A. The State Board of Education shall adopt expected alternate year percentage growth targets, for all public secondary schools and school districts, based on high school graduation rates, using the four-year adjusted cohort graduation rate calculated as provided for in Section 1 of this act. The minimum percentage growth targets shall be twenty percent (20%) of the difference between the graduation rate of the baseline year and the goal of one hundred percent (100%). The baseline year shall be established in the 2012-2013 school year. In alternating years new growth targets shall be established until all secondary schools and school districts have met the goal of one hundred percent (100%).

B. Public secondary schools and school districts meeting or exceeding expected growth targets at the end of the initial two (2) years or in the alternate years as provided for in subsection A of this section shall be recognized by the state as notable schools and school districts. Recognition may include, but not be limited to, citations of congratulations from the State Superintendent of Public Instruction as the designee of the State Board of Education, the Governor or designee, the Representative and Senator representing the school and or school district, and banners for each school or school district achieving notable status.

C. Public secondary schools and school districts failing to meet the expected growth targets at the end of the initial two (2) years or in the alternate years as provided for in subsection A of this section shall:

1. Submit a high school graduation improvement plan to their district board of education at a regularly scheduled meeting prior to December 31st of the same year; and

2. Contingent upon the availability of funding, participate in technical assistance and training provided by the State Department of Education for the purpose of reducing drop-out rates and improving high school graduation rates. The technical assistance and training shall include identifying and implementing best practices, identifying actions the school district and schools should take to meet target high school graduation goals, and providing ongoing monitoring to assess school district and school progress in implementing recommended actions. **(70-3-151.2)**

Note: Enacted by SB 2, Sec. 2 of the 2011 Reg. Sess.

Section 45.4. Academic Achievement Award Program.

A. The State Board of Education shall develop an Academic Achievement Award (AAA) program. The AAA program shall provide monetary awards to qualified employees at:

1. The top school site that attains the highest overall student achievement as measured by the average of the last three reported Academic Performance Index (API) scores in each of the five groups based on average daily membership (ADM) as provided for in subsection D of this section;

2. The top school site that attains the highest annual improvement in student achievement as measured by the average of the last three reported Academic Performance Index (API) scores in each of five groups based on average daily membership (ADM) as provided for in subsection D of this section;

3. All school sites that attain an average API score of one thousand five hundred (1,500) for the last three reported API scores for regular education students tested; and

4. All school sites that attain the "Gold", "Silver", or "Bronze" levels as measured by an average API score as established in paragraph 6 of subsection B of this section for the last three reported API scores.

B. 1. No later than March 31 of each year, the State Board of Education shall provide a monetary award to all qualified employees at school sites designated as recipients of the Academic Achievement Award as calculated pursuant to this section.

2. The Board shall determine the amount of funds available for the AAA program, which shall include funds appropriated for the AAA program and may include other funds identified by the Board, which may be used for this purpose. Each year, based on the amount of available funding, the Board shall provide awards to all qualified employees at school sites which have qualified for awards in each category in the following order, with awards being made for each subsequent category to as many school sites which have qualified for awards as can be funded with the remaining funds:

a. paragraph 3 of this subsection,

b. paragraph 4 of this subsection,

c. paragraph 5 of this subsection,

d. subparagraph a of paragraph 6 of this subsection,

e. subparagraph b of paragraph 6 of this subsection, and

f. subparagraph c of paragraph 6 of this subsection.

3. The Board shall determine the top school site in each of the groups as designated in subsection D of this section that have achieved the highest overall student achievement as measured by the average of the last three reported API scores as calculated pursuant to Section 3-150 of this title.

4. The Board shall determine the top school site in each of the groups as designated in subsection D of this section that have achieved the highest annual average percentage improvement in student achievement as measured by the average of the last three reported API scores as compared to the previous three-year average of reported API scores.

5. The Board shall determine the school sites that have an average API score of one thousand five hundred (1,500) for the last three reported API scores for regular education students tested.

6. The Board shall determine the school sites that have an average API score for the last three reported API scores that meet the following levels:

a. Gold level – an average API score between one thousand four hundred ninety-nine (1,499) and one thousand three hundred ninety-five (1,395),

b. Silver level – an average API score between one thousand three hundred ninety-four (1,394) and one thousand two hundred seventy-five (1,275), and

c. Bronze level – an average API score between one thousand two hundred seventy-four (1,274) and one thousand one hundred fifty-five (1,155).

7. In the event of tie scores, the Board shall select the school site with the highest annual percentage improvement in student achievement as measured by the API score as compared to the previous year. If a tie still exists, the Board shall select the school site with the highest annual percentage improvement in reading achievement as compared to the previous year as measured by the reading assessments administered pursuant to Section 1210.508 of this title.

8. Any school site that qualifies for more than one award as provided for in paragraphs 3, 4, 5 and 6 of this subsection shall receive the award with the highest monetary amount the school site qualifies for as calculated pursuant to subsection C of this section, but in no case shall any school site receive more than one award.

C. 1. The amount of monetary award to be paid to each qualified employee at each school site identified as an award recipient as determined pursuant to paragraphs 3 and 4 of subsection B of this section shall be Two Thousand Dollars ($2,000.00).

2. The amount of monetary award to be paid to each qualified employee at each school site identified as having an average API score of one thousand five hundred (1,500) for the last three reported API scores for regular education students tested as determined pursuant to paragraph 5 of subsection B of this section shall be Two Thousand Dollars ($2,000.00).

3. The amount of monetary award to be paid to each qualified employee at each school site identified as having attained the Gold, Silver, or Bronze levels as determined pursuant to paragraph 6 of subsection B of this section shall be as follows:

a. One Thousand Dollars ($1,000.00) for each Gold level school,

b. Five Hundred Dollars ($500.00) for each Silver level school, and

c. Two Hundred Fifty Dollars ($250.00) for each Bronze level school.

D. Groups shall be designated based on average daily membership (ADM) as follows:

1. Group 1 - 0 to 135 ADM;

2. Group 2 - 136 to 235 ADM;

3. Group 3 - 236 to 345 ADM;

4. Group 4 - 346 to 505 ADM; and

5. Group 5 - 506 or more ADM.

E. For purposes of this section, "qualified employees" means all certified personnel employed to serve as a teacher, principal, supervisor, administrator, counselor, librarian, or certified or registered nurse at a school site which has been identified as a recipient of an Academic Achievement Award for at least eighty-five (85) days or equivalent hours of the school year which is the last school year used to calculate the three-year average API score which is used to determine eligibility for an award. For charter schools formed and operated pursuant to the Oklahoma Charter School Act, qualified employees shall include all administrative and instructional personnel that meet the requirements of this subsection regardless of whether they are certified. Qualified employees shall not include certified personnel who are employed at the school site in a noncertified position and the superintendent of the school district. Qualified employees shall include the certified personnel employed at an elementary school site for at least eighty-five (85) days or equivalent hours of the school year if students who are enrolled at the elementary site were enrolled in an early elementary school site which contains only prekindergarten, kindergarten, first- or second-grade levels that qualifies for an award. Qualified employees shall include the certified personnel employed at an early elementary school site which contains only

prekindergarten, kindergarten, first- or second-grade levels for at least eighty-five (85) days or equivalent hours of the school year if students who were enrolled at the early elementary site are now enrolled at an elementary school site that qualifies for an award.

F. Qualified employees who are assigned to more than one school site which is identified as an award recipient shall qualify for only one award, which shall be the highest award the employee qualifies for. For qualified employees who are employed as less than a one full-time-equivalent employee (FTE) by a school district and are assigned to a school site identified as an award recipient or who are employed as one FTE by a school district but are assigned as less than one FTE at a school site identified as an award recipient, the amount of the monetary award paid to the qualified employee shall be prorated based on the prior year final certified personnel FTE reported on the certified personnel report for the school site for the qualified employee.

G. No school site or school district shall be liable for payment of awards pursuant to this section. Awards shall not be included in the calculation of the salary of the teacher for purposes of meeting the district or statutory minimum salary schedule or for purposes of calculating Teachers' Retirement System of Oklahoma contributions or benefits.

H. The State Board of Education shall promulgate rules necessary for the implementation of this section. The Board shall annually announce and recognize the school sites that have qualified for an award under the Academic Achievement Award program and shall post a list of the school sites on the Internet website for the State Department of Education. **(70-3-152.1)**

Section 45.5. Exemptions from Reporting Requirements.

Except for school districts with one or more school sites which are identified for school improvement as determined by the State Board of Education pursuant to the requirements of the No Child Left Behind Act of 2001, P.L. No. 107-110, all school districts shall be exempt from reporting to the Board the following plans:

1. The Comprehensive Local Education Plan as required in Section 3-104.2 of this title;

2. The school improvement plan as required in Section 5-117.4 of this title;

3. The capital improvement plan as required in Section 18-153 of this title; and

4. The reading sufficiency plan as required in Section 1210.508C of this title, subject to the requirements of paragraph 1 of subsection F of Section 1210.508C of this title; provided the last reading sufficiency plan submitted by the school district was approved by the State Department of Education and expenditures for the program include only expenses relating to individual and small group tutoring, purchase of and training in the use of screening and assessment measures, summer school programs, and Saturday school programs. Prior approval from the State Department of Education shall be required for other types of expenditures. **(70-3-153)**

Section 45.6. Plans to be Reviewed by Regional Accreditation Officer.

Each plan listed in Section 1 of this act and which is not required to be submitted to the State Department of Education shall be reviewed by a regional accreditation officer at the time of the annual visit to the school district by an officer. **(70-3-154)**

Section 45.7. Study Regarding School District Reports.

A. The State Board of Education shall study and assess ways to eliminate, reduce, consolidate, and simplify the number, type, and length of reports, data, statistics, and other information required of any school district or school district personnel by the Board or State Department of Education. Subject to the availability of funding, the Board is hereby authorized to retain a consultant or expert as may be necessary to complete the study. The study shall include the feasibility of coordinating reporting dates and shall identify all requirements for maintaining, completing and filing records and reports mandated by law or rule and make recommendations for any amendments that may be necessary to the law or rules to implement the recommendations reported in the study. In conducting research for the study, the Board shall provide for the input and participation of school districts, school district personnel, and other educational organizations. By December 31, 2010, the Board shall issue a preliminary report of any findings and recommendations

collected prior to that date. The Board shall complete the findings and recommendations of the study and shall file a final report with the Governor, Speaker of the House of Representatives, and the President Pro Tempore of the Senate by December 31, 2012.

B. In conducting the study as required in this section, the Board may:

1. Survey a sample of classroom teachers from elementary, middle, and high school grades in the public schools in the state to determine the quantity and types of paperwork required from teachers on a daily, weekly, monthly, semester, or annual basis as mandated by state law or rule;

2. Review efforts being made at the school district level to reduce the requirements for extraneous paperwork placed on teachers;

3. Collaborate with the United States Department of Education to standardize all compliance requirements of the federal Individuals with Disabilities Education Act (IDEA) and review and simplify the paperwork established by the United States Department of Education to verify compliance with IDEA; and

4. Study the amount of state and local funds expended to meet the compliance and paperwork requirements of IDEA. **(70-3-155)**

Section 45.8. Local Input Regarding School District Property.

Each local school district may study and assess ways to eliminate, reduce, consolidate, and simplify the number, type, and length of reports, data, statistics, and other information required of any school district personnel by federal or state law. In conducting research for the study, the school district shall provide for the input and participation of school district personnel.

Each local school district may also study and assess ways to eliminate, reduce, consolidate, and simplify the number of tests required by students enrolled in school.

Findings and recommendations of both studies shall be included in the Comprehensive Local Education Plan of the school district and shall be forwarded to the State Department of Education. **(70-3-156)**

Section 45.9. Student Record System.

A. In developing and implementing a state student record system, as required in Subsection E of Section 18-200.1 of Title 70 of the Oklahoma Statutes, and as needed to comply with the tracking and reporting requirements of the Elementary and Secondary Education Act of 2001 (ESEA), P.L. No. 107-110, also known as the "No Child Left Behind Act of 2001", the State Department of Education shall construct the system to contain the following elements and comply with the following standards and compliance capabilities:

1. Extensible Markup Language (XML), which defines common data formats used during communication between disparate systems;

2. Web services protocol developed by the World Wide Web Consortium, which enables systems that are physically separated but connected to the Internet to be combined to permit complex operations;

3. Schools Interoperability Framework (SIF) version 1.5 specifications, or any updated versions of the specifications, which enable school district software management systems to communicate with each other. The student record system shall include, but not be limited to, the specifications for course identifiers, state standard formatting, content formatting, and assessment formatting specification;

4. United States Department of Education Performance-Based Data Management Initiative (PBDMI) data exchange guidelines with data elements capable of providing reporting on federal educational programs; and

5. Defined state data codes to ensure consistent reporting from school districts including, but not limited to, data codes for course identifiers, entries, gains, and losses. Current data codes for teacher certification and the Oklahoma Cost Accounting System shall be extended to match other defined data codes.

B. By the 2005-2006 school year, any student information system and any instructional management system used by school districts in the state shall comply with the Extensible Markup Language (XML) standards and the Schools Interoperability Framework (SIF) version 1.5 specifications, or any updated versions of the specifications. **(70-3-160)**

Section 45.10. Information Provided by Parent or Guardian Upon Enrollment.

A. Beginning with the 2007-2008 school year, upon initial enrollment in a public school district, the school shall request the parent or guardian of a student to provide information to the school district regarding participation in the following:

1. A childcare program that is licensed pursuant to the tiered licensing system established by the Department of Human Services;

2. The Sooner Start program operated by the State Department of Education;

3. The Oklahoma Parents as Teachers program operated by the State Department of Education;

4. The Children First program operated by the State Department of Health;

5. Any child abuse prevention program operated by the State Department of Health;

6. Any federally funded Head Start program; and

7. Any other early childhood program funded by state or federal monies as determined by the State Board of Education.

B. The State Department of Education shall verify the accuracy of the information provided by the parents or guardians pursuant to subsection A of this section with the appropriate agency. Each agency shall cooperate and provide verifying data to the Department.

C. The State Department of Education shall develop state data elements and codes for each program identified pursuant to subsection A of this section for use in the statewide student record system program, which shall be used to provide effective reporting and research on the identified programs. The codes shall be entered into the statewide student record system program upon initial enrollment of a student.

D. The State Board of Education shall adopt rules to implement the provisions of this section. **(70-3-161)**

Section 45.11. Student Tracking and Reporting (STAR) Pilot Program.

A. There is hereby created the Student Tracking and Reporting (STAR) Pilot program. The purpose of the Pilot Program shall be to provide for the development and implementation of a horizontal school district and school site level student data management and reporting system based on the Schools Interoperability Framework (SIF) industry open -standard. The developed student data management and reporting system shall provide horizontal articulation of student academic data, student demographic data and other relevant student information. Horizontal articulation shall assimilate the data from the classroom level, to the school site level, and to the district level, with the capability to analyze and disseminate the data back to the school site and classroom level when required by teachers and administrators to support informed and improved classroom instruction. The student data management and reporting system shall vertically interoperate with the Oklahoma State Student Information System, referred to as the Wave Program. Vertical interoperability shall allow for the student data management and reporting system to exchange necessary and requested student data elements with the Wave Program. Nothing in this section shall prohibit the State Board of Education from developing and defining student data elements necessary for the Wave Program. The Pilot Program shall incorporate the following objectives:

1. Provide for academic performance reporting at the district level for all students in grade levels five, eight, ten and twelve. Academic performance reporting shall include report card grades, student performance results from multiple standardized assessments, including at least one norm-referenced assessment, Oklahoma State Testing Program results for grade levels five, eight, and End-of-Instruction assessments, and ACT college entrance examination scores when applicable;

2. Provide for a horizontal data aggregation system at the school district and site level that facilitates storage, retrieval and distribution of data both horizontally, at the school district and site levels, and vertically to the Wave Program, including all necessary student data elements to support academic performance reporting;

3. Provide for a reporting structure at the district level that shall address all state and federal reporting requirements, including those specified in the federal act known as the No Child Left Behind Act (NCLB), and data elements used in determining district and site performance levels for the Academic Performance Index. The district level reporting structure shall also provide for the transfer of aggregated school district and site level data in Extensible Markup Language (XML), an industry open-standard data format, to both state and federal agencies if required by the agencies in an aggregated format;

4. Develop, define and implement necessary data elements and codes to meet reporting requirements to support horizontal articulation of data at the district and site level and to provide effective transfer of data for state and federal reporting. Provided, that if SIF or the State Board of Education has not defined data elements and codes necessary for the development of the student data management and reporting system, the participating pilot program school districts may create the necessary data elements and codes to support horizontal articulation of data at district and site levels and to provide effective transfer of data for state and federal reporting requirements. Nothing in this paragraph shall prohibit the State Board of Education from defining data elements and codes not defined in the SIF specifications for the Wave Program and from requiring all school districts, including the pilot program school districts, to use the data elements for the vertical transfer of data. These data elements and codes may include, but are not limited to, expanded student entry, gain and loss codes and unique course identification codes;

5. Provide for a historical data warehousing system at the school district and site levels to archive and retrieve comprehensive student data in order to provide all Pilot Program teachers and administrators with the necessary student academic performance indicators, including report card grades and multiple assessment data, to inform and improve instructional programs at the classroom level;

6. Provide for the aggregation of student performance credentialing at both school district and site levels. The Pilot Program schools shall develop credentialing criteria that shall include, but is not limited to, all areas of academic performance as outlined in paragraph 1 of this subsection, plus additional performance indicators pertaining to life skills, citizenship, and when applicable employability skills and career awareness/exploration. Pilot Program schools shall develop a summary or condensed portfolio of student credentialing results within the transcript of all graduating students, to include cumulative credentialing data for students from grades six through twelve. The student credentialing portfolio shall be developed so that it can be electronically distributed via secure vertical transmission. Any transmission of a student portfolio to institutions of higher education and to other entities such as potential employers shall comply with the provisions of the Family Education Rights & Privacy Act (FERPA);

7. Provide for a continuous school and student improvement framework through the measurement of comprehensive, cumulative student growth by analyzing multiple academic performance measurements. Such measurements shall document relative growth over time so as to determine continuous improvement at the individual student, grade and school-wide levels; and

8. Provide for professional development in the use of techniques and tools to improve student achievement to teachers in the Pilot Program. Provide training to administrators and support personnel in the implementation of the student data management and reporting system.

B. The student data management and reporting system shall be designed to deliver specific data to the Wave Program as is required. Options shall be explored to facilitate the future development of secure data delivery systems at district and site levels that shall provide information to parents, students, teachers, administrators, and the community regarding student, site and district level academic growth.

C. The Pilot Program participants shall utilize a system for data articulation and continuous improvement that is currently being utilized or developed by a school district or districts in the state as the model for the Student Tracking and Reporting Pilot Program. The model system shall include the following proven capabilities:

1. Proven systemic methodology to electronically generate state and federal reports;

2. Proven methodology to manage, analyze, and securely deliver student academic and performance data to administrators and teachers;

3. Two (2) or more years implementing a horizontal articulation solution based on the SIF specifications; and

4. One (1) or more years implementing a horizontal articulation solution allowing for interoperability between multiple SIF specification versions and with a demonstrated capacity in using a Zone Integration Server (ZIS) application that provides for the exchange of student data between more than five disparate education software systems and a ZIS that utilizes more than five industry-build SIF agents.

D. There is hereby created the Student Tracking and Reporting (STAR) Coordinating Committee. The Committee shall consist of five (5) members as follows:

l. One member to be appointed by the Speaker of the Oklahoma House of Representatives;

2. One member to be appointed by the President Pro Tempore of the Senate;

3. One member to be appointed by the Governor;

4. One member to be appointed by the Superintendent of Public Instruction; and

5. One member who represents OneNet appointed by the Chancellor of Higher Education.

E. The State Superintendent of Public Instruction shall call the first meeting of the Committee within thirty (30) days after the effective date of this act. The Committee shall select a Chair of the Committee from among the members at the first meeting. Subsequent meetings of the Committee shall be held at the call of the Chair or by a quorum of the members. The Committee shall meet at such times as is necessary.

F. Members of the Committee shall receive no compensation for serving on the Committee, but shall receive travel reimbursement as follows:

1. State agency employees who are members of the Committee shall be reimbursed for travel expenses incurred in the performance of their duties by their respective agencies in accordance with the State Travel Reimbursement Act; and

2. All other committee members shall be reimbursed by the State Board of Education for travel expenses incurred in the performance of their duties on the Committee in accordance with the State Travel Reimbursement Act.

G. The STAR Coordinating Committee shall select five public school districts to participate in the Pilot Program. One school district shall be selected from each of the four quadrants of the state. One school district shall be selected from a large urban area in the state based on population. The Committee shall establish criteria, including but not limited to technical capacity and knowledge criteria, that school districts shall be required to meet in order to qualify to participate in the Pilot Program. The Committee shall select the participating school districts by September 15, 2005.

H. The STAR Coordinating Committee shall develop standards and procedures necessary for carrying out the objectives of the Pilot Program and for acquiring resources, materials, and software for the Pilot Program.

I. At the direction of the STAR Coordinating Committee, the State Board of Education shall contract with experts or specialists and for training, materials, and software as is necessary to accomplish purposes of the pilot Program.

J. By July 1, 2006, the STAR Coordinating Committee shall report on the progress and developments accomplished through the pilot Program. **(70-3-162)**

Section 45.12. Data Coordinating Council.

A. There is hereby created to continue until July 1, 2015, in accordance with the provisions of the Oklahoma Sunset Law, the P-20 Data Coordinating Council.

B. The Council shall be composed of members as follows:

1. One member who shall serve as chair of the Council, appointed by the Governor, and confirmed by the Senate;

2. The Chancellor of Higher Education, or designee;

3. The State Superintendent of Public Instruction, or designee;

4. The Director of the Oklahoma State Department of Career and Technical Education, or designee;

5. A member of the Senate, appointed by the President Pro Tempore of the Senate;

6. A member of the House of Representatives, appointed by the Speaker of the House of Representatives;

7. A staff member of the Office of State Finance, appointed by the Director of the Office of State Finance;

8. The Chief Information Officer, if such position is created through enactment of legislation;

9. The Executive Director of the Oklahoma Employment Security Commission, or designee;

10. The Director of the Office of Accountability, or designee;

11. A representative of a statewide business organization, appointed by the Governor;

12. A representative of a statewide organization representing public school superintendents, appointed by the Governor; and

13. A representative of a statewide organization representing public school teachers, appointed by the Governor.

C. Appointments to the Council shall be made by July 1, 2009. Meetings of the Council shall be held at least quarterly at the call of the chair. Members shall serve at the pleasure of their appointing authorities. A majority of the members of the Council shall constitute a quorum to transact business, but no vacancy shall impair the right of the remaining members to exercise all of the powers of the Council. A vacancy on the Council shall be filled by the original appointing authority. The Office of State Finance, the State Department of Education, Oklahoma Department of Career and Technology Education, and the Oklahoma State Regents for Higher Education shall provide staff, support and information as requested by the Council.

D. Members of the Council shall receive no compensation for serving on the Council, but shall receive travel reimbursement as follows:

1. State employees who are members of the Council shall be reimbursed for travel expenses incurred in the performance of their duties by their respective agencies in accordance with the State Travel Reimbursement Act;

2. Legislative members shall be reimbursed in accordance with Section 456 of Title 74 of the Oklahoma Statutes; and

3. All other members of the Council shall be reimbursed by the Office of State Finance for travel expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.

E. The Council shall advise the State Department of Education, the State Regents for Higher Education, the Department of Career and Technology Education, the Office of Accountability, the Oklahoma Employment Security Commission, the Legislature, and the Governor on coordination of the creation of a unified, longitudinal student data system to provide interoperability and efficient and effective storage, use and sharing of data among the State Department

of Education, Oklahoma Department of Career and Technology Education, Oklahoma State Regents for Higher Education, Legislature, other policymakers and executive agencies, and the general public.

F. The Council shall act in accordance with the provisions of the Oklahoma Open Meeting Act and the Oklahoma Open Records Act.

G. By October 31, 2009, the P-20 Data Coordinating Council shall complete an assessment of the current status of student data systems in place by the State Department of Education, Oklahoma Department of Career and Technology Education, and Oklahoma State Regents for Higher Education. The P-20 Data Coordinating Council may contract with a private consultant or consultants to assist in the assessment, contingent upon the availability of funding. The Council is hereby authorized to utilize any funds received including, but not limited to, any state or federal funds, grants, or private donations.

H. By December 31, 2009, the Chair of the P-20 Data Coordinating Council shall notify in writing the agencies set forth in paragraph G of this subsection of any actions necessary for each agency to take to enable the move to a unified data system and shall recommend any statutory changes necessary to the Legislature and the Governor. The data system established shall include the elements described in section 6401(e)(2)(D) of the America COMPETES Act (20 U.S.C. 9871(e)(2)(D)).

I. For the purposes of this act, a "unified data system" shall connect essential data elements relating to student level course work and course grades. The system shall facilitate the transfer of data across systems and among interested parties to address questions that cut across levels of the educational system and agencies. The unified data system shall facilitate the addition of data elements relating to testing, instruction and other performance and demographic data. The unified data system shall be accessible to a wide range of stakeholders and serve a variety of purposes, including improving teaching and learning, informing public policy, fostering a culture of evidence-based decision making, conducting research, evaluating system and program effectiveness, and providing reports to various stakeholder groups. **(70-3-163)**

Section 45.13. Data Coordinating Council Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the P-20 Data Coordinating Council to be designated the "P-20 Data Coordinating Council Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the P-20 Data Coordinating Council from state or federal funds, grants, and private donations. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the P-20 Data Coordinating Council for the purpose of providing financial support to the Council, including salary and benefits of the P-20 Data Officer and other necessary expenditures. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment. **(70-3-164)**

Section 45.14. Educational Quality and Accountability Board.

A. There is hereby created to continue until July 1, 2015, in accordance with the provisions of the Oklahoma Sunset Law, the Educational Quality and Accountability Board.

B. The membership of the Board shall consist of:

1. The Secretary of Education, who shall serve as Chair of the Board. If there is a vacancy in the office of Secretary of Education, or if the individual appointed as Secretary of Education is concurrently the Superintendent of Public Instruction, the Governor shall appoint a replacement member to serve as Chair of the Board in lieu of the Secretary of Education;

2. The Chair of the P-20 Data Coordinating Council appointed by the Governor pursuant to Section 2 of this act, who shall serve as Vice Chair of the Board;

3. The Chair of the Governor's Council for Workforce and Economic Development;

4. A chief executive officer of a company in this state, appointed by the Governor;

5. An individual with primary responsibility for information technology for a company with a minimum of five hundred (500) employees in this state, appointed by the Governor;

6. The Vice Chancellor of Academic Affairs for the Oklahoma State Regents for Higher Education, appointed by the Chancellor of Higher Education;

7. A president of a regional or comprehensive university within The Oklahoma State System of Higher Education, appointed by the Chancellor of Higher Education;

8. A teacher of a public school district, appointed by the Speaker of the House of Representatives;

9. A principal of a public school district, appointed by the Speaker of the House of Representatives;

10. A superintendent of a public school district, appointed by the President Pro Tempore of the Senate; and

11. A representative of a statewide parent-teacher organization, appointed by the President Pro Tempore of the Senate.

C. Initial appointments pursuant to the provisions of this section shall be made no later than July 1, 2009. Vacancies shall be filled by the original appointing authority.

D. A quorum which shall consist of six members must be present for the transaction of any business. The Board shall hold meetings at least on a quarterly basis. Members shall be reimbursed for travel in the performance of their official duties in accordance with the State Travel Reimbursement Act.

E. The Board shall:

1. Review all functions related to the determination of adequate yearly progress as required under the Elementary and Secondary Education Act, P.L. No. 107-110;

2. Review processes for selection and approval of contracts and bid specifications for contracts by the State Department of Education with vendors for administration of testing and approval of test specifications and test blueprints necessary for the administration of the Oklahoma School Testing Program Act;

3. Review all tests administered by the State Department of Education and make recommendations to realign, recalibrate and improve the tests with a particular emphasis on grades three through eight and End-of-Instruction (EOI) tests;

4. Review processes for the establishment of cut scores for the Oklahoma School Testing Program Act;

5. Study the process by which student performance levels and the corresponding cut scores pursuant to the Oklahoma School Testing Program Act are determined and adopted, including the timing of cut score adoption;

6. Study the feasibility of ensuring that the cut scores are tied to the rigor of the tests and the rate and method by which scheduled increases in cut scores shall occur, including any link to national assessments;

7. Serve as an independent auditing entity for the purpose of evaluating the systems and processes by which the Oklahoma School Testing Program Act is implemented, ascertaining the validity and reliability of information or the deficiencies thereof; and

8. Make recommendations to the Legislature and the Governor on the Board's findings.

F. The Educational Quality and Accountability Board may seek the assistance of the Legislative Service Bureau to contract with an independent consultant as necessary to conduct the audit specified in paragraph 7 of subsection E of this section, contingent on the availability of funds.

G. Staff support for the Board will be provided by the Staff of the House of Representatives, Senate, Office of State Finance and Legislative Service Bureau.

H. Members who serve on the Educational Quality and Accountability Board shall be exempt from the dual office holding prohibitions of Section 6 of Title 51 of the Oklahoma Statutes. **(70-3-165)**

Section 45.15. Educational Quality and Accountability Board Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Educational Quality and Accountability Board to be designated the "Educational Quality and Accountability Board Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Educational Quality and Accountability Board from state or federal funds, grants, and private donations. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Educational Quality and Accountability Board for the purpose of providing financial support to the Board in order to fulfill the duties as set forth in Section 5 of this act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment. **(70-3-166)**

Section 45.16. Exemptions from Advisory Councils or Committees.

For the fiscal years ending June 30, 2011, and June 30, 2012, the State Board of Education shall exempt all school districts from or waive any policy, rule or law which requires school districts to form, convene, or participate in any advisory council or committee, including but not limited to the requirement to convene an advisory council when preparing the school improvement plan as set forth in Section 5-117.4 of Title 70 of the Oklahoma Statutes. School districts shall not be exempted from forming, convening or participating in an advisory council or committee if required by federal law or regulation. **(70-3-167)**

Section 46.0. Oklahoma Advisory Council on Indian Education Act.

This act shall be known and may be cited as the "Oklahoma Advisory Council on Indian Education Act". **(70-3-171)**

Section 46.1. Purpose.

The purpose of the Oklahoma Advisory Council on Indian Education Act is to recognize the unique relationship that Oklahoma enjoys with the Indian tribes located within the state and how Native Americans and Indian tribes play a pivotal role in the educational system of the state in light of this special relationship. The further purpose of the act is to establish the Oklahoma Advisory Council on Indian Education. The purpose of creating the Council is to promote culturally relevant learning environments, educational opportunities and instructional material for Native American students enrolled in the public schools of the state. Because of the number of Native American students enrolled in public schools in the state, this objective will positively affect the educational success of all public school students and encourage further government-to-government cooperation between the State of Oklahoma and the sovereign Indian tribes located in Oklahoma. **(70-3-172)**

Section 46.2. Oklahoma Advisory Council on Indian Education.

A. There is hereby created to continue until July 1, 2014, in accordance with the provisions of the Oklahoma Sunset Law, the Oklahoma Advisory Council on Indian Education.

B. The Council shall:

1. Make recommendations to the State Board of Education and the Superintendent of Public Instruction in educational matters affecting the education of Native American students;

2. Promote educational opportunities and improvement of the quality of education provided to Native American students throughout the state;

3. Advocate for Native American students in the state; and

4. Monitor and evaluate how the public education system of the state impacts Native American students.

C. The Council shall be composed of eighteen (18) members as follows:

1. Five members who shall each represent an Indian tribe in the state, of which at least one shall represent an Indian tribe which has an enrollment of less than ten thousand (10,000) members who reside in the state, appointed by the Governor from a list of nominations submitted by the different Indian tribes in the state;

2. Four members who shall each represent the tribal education departments of an Indian tribe in the state, appointed by the Governor from a list of nominations submitted by the different Indian tribes in the state;

3. One member who shall represent the Oklahoma Council on Indian Education, appointed by the Governor;

4. Two members who shall represent two different statewide organizations representing public school teachers, appointed by the President Pro Tempore of the Senate;

5. One member who shall represent a statewide organization representing public school superintendents appointed by the Speaker of the House of Representatives;

6. One member who shall represent Oklahoma tribal colleges, appointed by the Chancellor of Higher Education;

7. The Director of the Native American Cultural and Educational Authority, or designee;

8. The Chancellor of Higher Education, or designee;

9. The Director of the Oklahoma Department of Career and Technology Education, or designee; and

10. The Superintendent of Public Instruction, or designee.

D. Appointments to the Council shall be made by September 1, 2010. The first meeting of the Council shall be called by the Superintendent of Public Instruction. At the first meeting, the members of the Council shall elect a chair and vice-chair from among the members. Meetings of the Council shall be held at least quarterly at the call of the chair. Members shall serve at the pleasure of their appointing authorities. A majority of the members of the Council shall constitute a quorum to transact business, but no vacancy shall impair the right of the remaining members to exercise all of the powers of the Council. A vacancy on the Council shall be filled by the original appointing authority. The State Department of Education, Oklahoma Department of Career and Technology Education, and the Oklahoma State Regents for Higher Education shall provide staff, support and information as requested by the Council.

E. Members of the Council shall receive no compensation for serving on the Council, but shall receive travel reimbursement as follows:

1. State employees who are members of the Council shall be reimbursed for travel expenses incurred in the performance of their duties by their respective agencies in accordance with the State Travel Reimbursement Act; and

2. All other members of the Council shall be reimbursed by the Office of State Finance for travel expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.

F. The Council shall act in accordance with the provisions of the Oklahoma Open Meeting Act and the Oklahoma Open Records Act.

G. Members who serve on the Council shall be exempt from the dual-office-holding prohibitions of Section 6 of Title 51 of the Oklahoma Statutes.

H. The Council shall have the following duties:

1. Identify strategies for developing an efficient and reliable process of communications between Oklahoma education entities, educators, tribal organizations and other interested parties;

2. Identify and disseminate research-based, measurable criteria, both behavioral and academic, by which the success and efficacy of the education offered to Native American students in Oklahoma may be measured;

3. Analyze data to ensure that education agencies in Oklahoma continue to address the education needs of Native American students;

4. Encourage and promote Native American educational leadership at all levels of the education system; and

5. Make recommendations to the State Board of Education for programs that will help achieve the purposes of the Oklahoma Advisory Council on Indian Education Act.

I. The Council shall evaluate and make an annual report on the effectiveness of the public education system in Oklahoma in meeting the needs of Native American students in Oklahoma. The report shall be submitted to the State Board of Education. The report shall also contain a summary of the findings made by the Council pursuant to subsection H of this section, a summary of all data collected by the Council, a summary of the means by which all data was collected by the Council, and any other information deemed necessary by the Council. **(70-3-173)**

Section 47. (Reserved)

Section 48.0. Abolition of Office of County Superintendent of Schools.

As of July 1, 1993, the office of county superintendent of schools in and for each county in Oklahoma is hereby abolished. **(70-4-101)**

Section 48.1. School District Boundaries - Duties of County Clerk.

On or before the first day of January of each year, the county clerk or a designee of the county clerk shall obtain from the State Department of Education and furnish to the county assessor of the county a current description of the boundary of each and every school district or part of a district in the county and also notify the Oklahoma Tax Commission, the county assessor and county treasurer of the county of any and all changes in the boundaries of a school district lying wholly or in part in the county. **(70-4-104)**

Section 48.2. Incapacity, Absence or Vacancy in Office of County Superintendent - Powers of Deputies and State Board of Education.

The first deputy county superintendent of schools shall have authority to approve transfers if the county superintendent shall be unable to act due to illness or absence from his office. If there is no person serving as county superintendent or deputy county superintendent in a county, the State Board of Education may legally disburse state aid funds to the school districts of the county, and said State Board of Education shall have authority to designate one of its employees to perform the duties that are prescribed by law to be performed by the county superintendent. **(70-4-105)**

Section 48.3. Assisting Board of Education in Performance of Its Duties, Functions and Responsibilities.

The State Board of Education shall have the authority to require the county superintendent of schools to assist the Board in the performance and discharge of any of its duties, functions and responsibilities in the county for which the county superintendent of schools shall have been elected or appointed; and state funds for supplementing the salary payable to the county superintendent of schools may be withheld if he fails or refuses to give such assistance upon proper request. **(70-4-106)**

Section 48.4. Neglect of Duty - Punishment.

Every county superintendent of schools who shall neglect or refuse to perform any act which it is his duty to perform or who shall corruptly or oppressively perform such duties shall forfeit his office and be liable on his official bond for damages occasioned thereby. **(70-4-107)**

Section 48.5. Preservation of Records of Former County Superintendents.

All records of a former county superintendent of schools shall be transferred to and are to be maintained and preserved by the county clerk of the county, who shall designate a deputy, aide, assistant or other employee of the county clerk's office to perform such duties. The County Commissioners shall make space available in which the records can be maintained, preserved and made secure. Except for those records specifically required by state or federal statutes to be kept confidential, public access shall be made available to all of the records.

After the records of a former county superintendent of schools are transferred to and the responsibility of maintaining the records are assigned to a deputy, aide, assistant or other employee of the county clerk and county commissioners of the county shall recommend to the county excise board that additional salary be considered for the employee based upon the additional responsibilities if funds are available and approved. Any additional salary of such employee shall be subject to the limitations set forth in Section 180.65 of Title 19 of the Oklahoma Statutes. **(70-4-201)**

Section 49. School Districts - Designation.

All school districts in Oklahoma, now in existence or which may hereafter be created, shall be designated only as independent, elementary or technology center school districts. Independent school districts, elementary school districts and technology center school districts shall be under the supervision and the administration of the respective boards of education thereof. **(70-5-101)**

Section 50. Independent School Districts.

All independent school districts in Oklahoma shall be those which shall have maintained during the previous year a school offering high school subjects fully accredited by the State Board of Education.

A reasonable deviation from any of the requirements enumerated herein shall not operate to prohibit the State Board of Education from designating any district as independent if the other requirements are sufficiently superior to the minimum standards required herein, but standards therefor shall be reduced to writing and a copy thereof sent to all districts maintaining high schools in Oklahoma at least one (1) year prior to the time requirements become effective. Until the effective date thereof, the requirements hereinabove enumerated shall remain in full force and effect.

As a basis for attaining the status of independent school district, high schools shall be inspected by a member of the division of secondary education of the State Board of Education or such other representative as the State Board of Education shall designate, and all of the standards prescribed by the State Board of Education shall be carefully checked in the presence of the district superintendent of schools or board of education of the district. A written report shall be made and mailed to the district superintendent of schools and board of education within thirty (30) days after time of such inspection. Such report shall indicate if the high school meets the requirements and, if not, a statement shall be made as to what must be done in order to comply therewith.

After any school district has become independent, it shall remain so until removed from independent status by the State Board of Education, which, however, shall not remove any school district from independent status until it is satisfied that the minimum standards for independent school districts are not being maintained. Any order of the State Board of Education removing a school district from independent status shall not become effective until the close of the fiscal year in which such order is made, and any order removing a school district from independent status which has heretofore been made by the State Board of Education, regardless of notice or effective date thereof, is hereby validated. A reasonable variation from year to year in the minimum number of teachers required shall not affect the status of any independent school district. **(70-5-102)**

Section 51. Elementary School Districts.

Elementary school districts shall offer grade kindergarten through eight and are those which have not met the minimum standards for, and have not been designated as, independent school districts by the State Board of Education. On and after July 1, 1991, every place in the Oklahoma Statutes which refers to "dependent school district" shall mean "elementary school district". **(70-5-103)**

Section 52. Elementary School Districts Offering Grades Above Eighth Grade.

On or after the effective date of this act, except upon approval of the State Board of Education, an elementary school district that did not offer any grade above the eighth grade during the 1993-94 school year may not offer grades above the eighth grade during the 1994-95 school year or any school year thereafter. No later than August 1, 1994, the State Board of Education shall promulgate rules to implement the provisions of this section. **(70-5-103.1)**

Section 53. Designation of District Retained on Records.

Only for the purpose of identifying a district that originally incurred an indebtedness so as to avoid confusion in discharging such indebtedness, the designation of a district when an indebtedness was incurred may be retained in the records of the county assessor, county treasurer, and other public officials charged with the duty of levying and collecting taxes for the payment of obligations of school districts irrespective of whether such indebtedness has been assumed by another school district. **(70-5-104)**

Section 54. School District - Body Corporate - Powers.

Every school district shall be a body corporate and shall possess the usual powers of a corporation for public purposes by the name and style of "Independent (or Elementary, if it is an elementary school district) School District Number _____ (such a number as may be designated by the State Board of Education) of _____ (the name of the county in which the district is located, or if lying in more than one county the name of the county where supervision is located) County, Oklahoma," and in that name may sue and be sued and be capable of contracting and being contracted with and holding such real and personal estate as it may come into possession of or by will or otherwise and as authorized by law. **(70-5-105)**

School district employees may not perform certain electrical tasks without an electrician's license. *February 6, 1990 (AG Op. No. 89-56)*

Board of Education has authority to enter into a compromise or settlement in lawsuit pending against it. *July 9, 1979 (AG Op. No. 79-191)*

School district is a political subdivision of the State. December 30, 1971 *(AG Op. No. 71-372)*

Section 55. Governing Body of School District.

A. The governing board of each school district in Oklahoma is hereby designated and shall hereafter be known as the board of education of such district. Except as otherwise provided in this section, the superintendent of schools appointed and employed by the board shall be the executive officer of the board and shall perform duties as the board directs.

B. The board may contract with a superintendent for a term as mutually agreed upon but not to exceed three (3) years beyond the fiscal year in which the contract is approved by the board and accepted by the superintendent. The contract shall include all other terms and conditions as agreed upon in writing by the board and the superintendent.

C. The boards of two or more school districts may contract with one superintendent to serve as superintendent of the school districts as provided in Section 4 of this act.

D. No board of a school district having average daily membership (ADM) of fewer than five hundred (500) pupils shall be prohibited from allowing a superintendent to serve simultaneously as a principal.

E. The chief executive officer of the board of education of a district in which a public developmental research school is established shall be the director of the school appointed as provided in Section 1210.577 of this title. **(70-5-106)**

Note: For authority for multi-year contracts see Section 599.

Under the Oklahoma City Charter, an Oklahoma City firefighter can not hold a position on a school board because it is a public office under Oklahoma law. *Sallee v. City of Oklahoma City*, 2011 OK CIV APP 5.

Section 55.1. Joint Contracts.

A superintendent, administrator, teacher, or person providing support services may contract with more than one school district to serve as superintendent, administrator, or teacher, as appropriately qualified, or to provide support services for each contracting district. The contract may be mutual with all the districts as parties, or the contracts may be separate; provided, that a superintendent, administrator, teacher, or person providing support services may not enter into contracts with more than one school district without the assent and knowledge of all the school districts with which they are contracting. The districts who contract either mutually or separately with a superintendent, administrator, or teacher, or with a person to provide support services may enter into agreements upon such terms and conditions as the parties may agree and may include terms related to the division of payments for items including, but not limited to, payment of benefits or travel for the superintendent, administrator, teacher, or person providing support services. Unless otherwise provided by contract, each district shall pay into the Teachers' Retirement System of Oklahoma the district's pro rata share of the payment required to be paid into the System on behalf of the employee. **(70-5-106A)**

Section 56. Independent and Dependent School Districts - Board of Education - Members - Election.

The following provisions and the provisions of Section 13A-101 et seq. of Title 26 of the Oklahoma Statutes shall govern the election of members of the board of education for a school district:

A. For purposes of this section, temporary positions added to a board of education pursuant to Section 7-101 or 7-105 of this title and the chair of the board of education elected pursuant to Section 1 of this act shall not be considered in determining the size of the board. The number and term of each board of education shall be as follows:

District	Members	Term (Years)
Elementary	3	3
Independent		
1. districts having a five-member board	5	5
2. districts having a seven-member board unless an election is conducted pursuant to subsection C of this section	7	4

B. In all school districts, the members of the board of education shall be elected as follows:

1. a. Between August 1 and December 31 of the year following the submission by the United States Department of Commerce to the President of the United States of the official Federal Decennial Census, the board of education shall reapportion the territory of the school district into board districts. Beginning with the reapportionment following the 1990 Federal Decennial Census, all boundaries of board districts shall follow clearly visible, definable and observable physical boundaries which are based upon criteria established and recognized by the Bureau of the Census of the United States Department of Commerce for purposes of defining census blocks for its decennial census and shall follow, as much as is possible, precinct boundaries. Board districts shall be compact, contiguous and shall be as equal in population as practical with not more than a ten percent (10%) variance between the most populous and least populous board districts.

b. School districts having fewer than one thousand eight hundred (1,800) students in average daily membership during the preceding school year may choose not to establish board districts and may nominate and elect all board members at large.

c. Elementary school districts shall have board members elected at large.

d. A city located in an independent school district having four or more wards and an outlying area with such outlying area comprising no more than twenty percent (20%) of the population of such independent school district,

then such independent school district may adopt such wards and outlying area in lieu of the board districts provided for in subparagraph a of this paragraph, and at least one member of the board of education of such independent school district shall be a member of each ward; and

2. One member of the board of education shall be elected by the electors of the school district to represent each such board district. Provided, however, that in any school district where the electors of each board district, rather than the electors of the entire school district, elect board members to represent that board district, that district shall elect board members in that manner.

If during the term of office to which a person was elected, that member ceases to be a resident of the board district for which the person was elected, the office shall become vacant and such vacancy shall be filled as provided in Section 13A-110 of Title 26 of the Oklahoma Statutes; and

3. In a school district having more than ten thousand (10,000) children in average daily membership, the following provision and the provisions of Section 13A-101 et seq. of Title 26 of the Oklahoma Statutes shall control as to election of the members of the school district's board of education:

a. There shall be held an election in which the electors of each board district in which a term is expiring or in which a vacancy exists shall select two candidates from among the candidates for board member to represent the board district,

b. If, in the election, one candidate has a majority of all votes cast, then a run-off election is not required. If no candidate receives a majority of all votes cast, then the two candidates receiving the greatest number of votes shall become the candidates for the board district in the general election, and

c. At the run-off election, all of the electors of the board district shall select one of the two candidates as the member of the board of education representing the board district.

C. Any seven-member board shall have the option of reducing its board to a five-member board either after approval of a board resolution or a vote of the electors of the school district to take such action pursuant to Section 13A-109 of Title 26 of the Oklahoma Statutes. The election pursuant to a vote of the electors of the school district shall be called upon the submission of a petition requesting the election signed by ten percent (10%) of the school district electors in the school district, the percentage being applied to the highest number of voters voting in a regular school district election in the district in the preceding five (5) years as determined by the secretary of the county election board, who shall certify the adequacy of the number of signatures on the petition. If the question is put before the voters of the district, such election shall be held along with and at the same time and place as the next school election if all requirements of Section 13A-101 et seq. of Title 26 of the Oklahoma Statutes for such election are met.

After such resolution or election, the board shall reapportion the district, determining by resolution or by lot which board member offices shall be abolished at the end of the current board member's term and which shall become one of the offices of the new board.

Election of the resulting board members shall be carried out according to procedures stated in this section and Section 13A-101 et seq. of Title 26 of the Oklahoma Statutes.

School board members currently serving in offices abolished pursuant to this subsection shall continue serving until the end of their current terms as at-large members.

D. Except for the chair of the board of education elected pursuant to Section 1 of this act, offices of members of the board of education shall be designated by consecutive numbers and shall correspond with board districts when applicable.

E. Except for those members elected prior to July 1, 1992, the terms of office of the members of a five-member board of education shall commence on the first regular, special or emergency school board meeting after the date of the annual school election and after the member has been certified as elected:

Office No. 1	1991
Office No. 2	1992
Office No. 3	1993
Office No. 4	1994
Office No. 5	1995

The terms of office of the members of a seven-member board of education shall be staggered, with one member being elected in 1991, two members being elected in 1992, two members being elected in 1993 and two members being elected in 1994 and shall commence on the first regular, special or emergency school board meeting after the date of the annual school election and after the member has been certified as elected; provided, in districts needing to elect two members in 1991 to maintain a full complement of board members, two members shall be elected in 1991, one for a full term and one for a one-year term, as determined by the local board. If a seven-member board is formed upon consolidation pursuant to Section 7-105 of this title, or upon annexation pursuant to Section 7-101 of this title, the formation agreement shall specify initial short terms as necessary to extend until the beginning of the regular terms for seven-member boards established herein.

Upon reduction of a seven-member board pursuant to subsection C of this section, the terms of the five-member board shall be staggered pursuant to this subsection.

One member of a three-member board of education shall be elected each year, and the terms of office shall commence on the first regular, special or emergency school board meeting after the member has been certified as elected.

F. The term of office of each board member elected after July 1, 1992, shall commence on the first regular, special or emergency school board meeting after the date of the annual school election and after the member has been certified as elected. Board members elected prior to July 1, 1992, may remain in office until their successor is elected and seated pursuant to Sections 13A-101 through 13A-111 of Title 26 of the Oklahoma Statutes. The remaining term of any member who completes the term for which the member was elected but not wishing to serve until the successor of the member takes office on the first regular, special or emergency school board meeting after the successor has been certified as elected, shall be filled by appointment by the remaining members of the board of education. **(70-5-107A)**

School board member must remain a resident of the school district during the term of office to retain eligibility to serve on board. *May 4, 2000 (AG Op. No. 00-24).*

If a school board member was elected prior to July 1, 1994 and ceased to be a resident of the board district after July 1, 1994, the office shall become vacant. *October 17, 1995 (AG Op. No. 95-71)*

Three options for electing board members in school districts having less than 1,000 students in average daily membership during the preceding year are as follows: (1) The school district "may choose not to establish board districts and. . . nominate and elect all board members at large." (2) The school district may establish board districts and elect board members at large; or (3) The school district may establish board districts and each respective board member may be elected only by the electors of that particular board district. *April 30, 1992 (AG Inf. Op. No. 92-580)* City charter cannot prescribe procedures for conducting school district elections. *March 2, 1981 (AG Op. No. 81-17)*

Section 56.1. Expansion of Board.

A. The board of education of a district with an average daily membership (ADM) of more than thirty thousand (30,000) students may be expanded to add a member who shall be elected at large for a term of four (4) years and who shall serve as chair of the board. The chair of the board position may be added upon a majority vote of the district board of education to add the position. If the board opts to add the chair of the board position, the chair of the board shall be elected at the next regular election of board members, held pursuant to Section 13A-103 of Title 26 of the Oklahoma Statutes, following the decision of the board.

B. The chair of the board of education shall possess the same qualifications as required for other board members, shall assume office as provided for other members of the board of education, shall be a full, voting member of the board, and shall count for purposes of a quorum or a majority, or other requirements based on number of members on the board. The chair shall preside at all meetings of the board of education in accordance with rules of parliamentary procedure

which have been adopted by a majority vote of the board, provided that, in the absence of rules adopted by the board, the chair shall determine and set forth the rules of parliamentary procedure that shall apply at board meetings; assemble and control the agenda for board meetings, provided that, upon approval of a majority of the members of the board, an item shall be placed on the agenda for the same or a subsequent meeting, in accordance with the Oklahoma Open Meeting Act; appoint all committees whose appointment is not otherwise provided for by law; and shall sign all warrants ordered by the board of education to be drawn upon the treasurer for school money. The chair of the board shall possess all powers otherwise provided by law for a member of a board of education, all powers provided by law for the president of a board of education, and such other lawful powers as may be conferred upon the chair by majority vote of the board. The chair shall receive compensation and benefits as conferred upon other members of the district board of education.

C. For a district in which a chair of the board has been elected, the district board of education, during the meeting at which the chair of the board assumes office, shall elect a vice-chair who shall serve a one-year term and until a successor is elected and qualified. The vice-chair shall perform all duties of the chair of the board in case of the chair's absence or disability. The board shall also elect clerks and deputies as provided in Section 5-119 of this title. The board shall not elect a president or vice president.

D. If a district board of education is expanded to include the chair of the board position , the chair of the board position shall not be abolished except by a majority vote of the voters of the school district voting on such question at a special election called for that purpose. The question may be presented only upon a resolution adopted by three-fourths (¾) of the board membership or upon petition for an election on the question, that complies with the requirements for petition and election set forth in Section 7-101 of this title. If the question is approved, the chair of the board position shall be abolished at the end of the term of the chair who holds the office when the election is held or upon the chair's resignation or vacancy of the office following the election on the question. **(70-5-107B)**

Section 57. Workshops for New Board Members - Expenses of Members Attending.

A. Except as provided in subsection B of this section, at the time a school district elector files a notification and declaration of candidacy for the office of district board of education membership, such elector shall agree and pledge in writing that, within fifteen (15) months of election or appointment as a member of the district board of education, such member will complete at least twelve (12) hours of instruction on education issues, including school finance, Oklahoma education laws, and ethics, duties and responsibilities of district board of education members. This requirement may be satisfied by attending a two-day workshop to be held within the state by the State Department of Education, by the Oklahoma Department of Career and Technology Education, or by attending workshops, seminars or classes which address the above-mentioned subject matter, and which are sponsored by any organization approved by the State Board of Education, including but not limited to institutions of higher education. The State Board of Education shall promulgate rules by which an organization or particular courses offered by an organization may be approved for purposes of fulfilling the instructional requirements set out in this section.

B. When an incumbent of a district board of education files a notification and declaration of candidacy for reelection to the district board of education, the member shall not be required to comply with the provisions of subsection A of this section but shall be required to agree and pledge in writing that upon reelection the member will complete six (6) hours of instruction within fifteen (15) months following his or her election emphasizing changes in school law, particularly changes in the areas set forth in subsection A of this section.

C. The State Department of Education shall, immediately after the annual elections of various district board of education members, determine the members of the district boards of education pledged to attend the workshop established by subsections A and B of this section, and shall notify such members of the time and place such workshop is to be conducted. Upon completion of the workshop, the certificate of completion shall be included in the public records of the school board's minutes. Each school board member, except for an incumbent member, shall be required within fifteen (15) months following or preceding his or her election to complete the workshop established by subsection A of this section or to attend twelve (12) hours of other state workshops conducted as instruction on the subjects of school finance, the Oklahoma School Code and related laws, and the ethics, duties and responsibilities of district board of education members. If a member has not satisfied the above instructional requirements within fifteen (15) months of his or her election, the district board of education shall declare the seat of such member vacant and fill the vacancy according to law. All government departments, agencies and institutions of this state are directed to lend such assistance as may be required by the State Department of Education for the proper conduct and administration of the workshops. The State Department of Education shall maintain a permanent record of each district board of education member who successfully completes a workshop and shall issue a certificate of completion to such member.

D. The State Department of Education, the Oklahoma Department of Career and Technology Education, and, upon approval of the State Board of Education, any organization or association representing district boards of education in this state are authorized to charge persons pledged to attend the workshop a registration fee sufficient to defray the estimated costs of presenting the workshop or Thirty-five Dollars ($35.00) per registrant, whichever is the lesser amount, and to collect such fees at the time of registration.

E. Any member of a district board of education or any individual elected, certified as the elected member by the county election board, but not sworn in and seated as a member of a district board of education at the time of a workshop presented by the State Board of Education, the Oklahoma Department of Career and Technology Education, or an organization or association representing district boards of education within the state who attends and successfully completes such workshop as required by subsection A or B of this section shall be reimbursed by the school district in accordance with the district's travel reimbursement policy. **(70-5-110)**

Section 58. Continuing Education for Board Members - Registration Fees - Reimbursement.

A. In addition to the requirements of Section 5-110 of this title, every member of a school district board of education elected to a full term of office of five (5) years or more shall be required to attend a minimum of fifteen (15) hours of continuing education, each member elected to a full four-year term of office shall be required to attend a minimum of twelve (12) hours of continuing education, and each member elected to a full three-year term of office shall be required to attend a minimum of nine (9) hours of continuing education, prior to the date set for filing for reelection to that respective board seat. The continuing education courses, workshops, seminars, conferences, and conventions which shall satisfy the continuing education requirement shall be approved jointly by the State Department of Education and the Oklahoma Department of Career and Technology Education.

B. Local and state continuing education programs conducted pursuant to the provisions of this section shall be held in all regions of the state at institutions of higher learning, area technology centers or other approved sites. Notice of such courses and seminars shall be provided to all school board members and to the public schools.

C. This section shall not apply to those school board members who file for reelection prior to July 1, 1991.

D. Failure by a board member to satisfy the continuing education requirements of this section shall result in the ineligibility of the member to run for reelection to the school district board of education.

E. The State Department of Education, the Oklahoma Department of Career and Technology Education, and any organization approved by the State Board of Education, including but not limited to institutions of higher education, may charge persons attending continuing education courses a registration fee sufficient to defray the estimated costs of presenting the course. The registration fees for each course shall be announced prior to the date of such course.

F. Any member of a school district board of education who attends and completes a course which satisfies in part or in full the requirements of this section shall be reimbursed by the school district for expenses incurred. In addition, a school district board of education may reimburse members of the board of education for expenses incurred in registering and attending board member training programs or activities approved by the board which are in addition to the minimum school board training requirements established by law. **(70-5-110.1)**

> If an incumbent member of a board of education fails to satisfy the 15-hour continuing education requirement during any full term of office, that board member is ineligible to run for reelection. If, however, no one challenges his/her candidacy and the member is reelected, the member is eligible to hold office. Once reelected, the school board member possesses a proper certificate of election, and the school board cannot refuse to seat the member. Even if the re-elected incumbent member holds office illegally, the actions taken by the board are valid. *July 16, 2001 (AG Op. No. 01-33)*

Section 59. Records of Attendance.

The State Board of Education shall maintain records of attendance by school board members at continuing education events required pursuant to Sections 5-110 and 5-110.1 of this title and prior to the final opportunity for each school board member who has not completed the continuing education requirements to complete the same, shall notify the school board member by mail of any final opportunity to complete these requirements. **(70-5-110.2)**

Section 60. Relation by Affinity or Consanguinity - Prohibition.

A. No person shall be eligible to be a candidate for or serve on a board of education if the person is currently employed by the school district governed by that board of education or is related within the second degree by affinity or consanguinity to any other member of the board of education or to any employee of the school district governed by the board of education. The purpose of this section is both to prohibit persons who are related within the second degree by affinity or consanguinity from serving simultaneously on the same board of education of any school district of this state and to prohibit persons who are related within the second degree of consanguinity or affinity to an employee of a school district from serving on the board of education governing the school district while such relative is employed.

B. If the relationship is based on affinity, the prohibitions in this section shall not apply to prevent members of boards of education who are serving on September 1, 1995, from serving the term for which they were elected or from serving successive terms for which they may be elected, unless it is the member's spouse who is a member of the board of education or an employee of the school district, then such prohibitions shall apply.

C. The prohibitions set forth in this section shall not apply if the person related to the board member within the second degree of affinity or consanguinity is employed as a substitute teacher by the school district pursuant to the provisions of Section 6-105 of this title or as a temporary substitute support employee if the school district has an Average Daily Membership (ADM) of less than five thousand (5,000).

D. Any member of a board of education who violates the provisions of this section shall be subject to the penalties prescribed by Sections 485 and 486 of Title 21 of the Oklahoma Statutes. **(70-5-113)**

Note: Enrolled Senate Concurrent Resolution No. 45 of the 1996 Reg. Sess. states that it is the intent of the Oklahoma State Legislature that the amendments contained in Section 60 above not be interpreted to apply retroactively so as to prevent board members who were serving on the effective date of such act and who have a spouse who is a member of the board or an employee of the school district, from serving the remainder of the term for which such board members were elected.

The second degree of relationship includes a spouse, child, child's spouse, parent, parent's spouse, grandchild, grandchild's spouse, grandparent, grandparent's spouse, brother, brother's spouse, sister, sister's spouse, spouse's child, spouse's parent, spouse's grandchild, spouse's grandparent, spouse's brother, and spouse's sister.

Section 5-113 is constitutional. The state's interest in avoiding conflicts of interest, avoiding favoritism and the appearance of favoritism, is sufficient to uphold the legitimate regulation of candidacy. While this Court holds sacred the right to vote and to participate in the political process as a candidate, we also recognize that the latter is not an absolute nor fundamental right, but that the state may impose reasonable, non-discriminatory regulations. We find Section 5-113 to be one of these reasonable, non-discriminatory impositions. *Sharp v. Tulsa County Election Board*, 890 P.2d 836 (Okla.1994)

Section 5-113 specifically states who is ineligible for candidacy. Section 5-113.1 specifically states who may be employed by the school district. Section 5-113.1 states that it is not to be construed to prevent an individual from being a candidate. But that statement does not lend itself to allowing family members to be candidates for school board. Instead it is an acknowledgment that school board eligibility requirements are governed by a separate statute, namely Section 5-113. In fact, it is clear that the intent behind Section 5-113 was to determine and set forth the eligibility requirements for individuals seeking to run for a seat on the school board. The two provisions are consistent with one another. *Sharp v. Tulsa County Election Board*, 890 P.2d 836 (Okla.1994)

The provisions of 70 O.S. Supp. 1992, §5-113, which provide that no person shall be eligible to be a candidate to serve on a board of education if he or she (1) is currently employed by the school district governed by the board of education, or (2) is related within the second degree by affinity or consanguinity to any other member of the board of education, or (3) is related within the second degree by affinity or consanguinity to any employee of the school district governed by the board, do not constitutionally restrict a person's right to be a candidate for public office. *January 11, 1983 (AG Op. No. 92-19)*

Person may serve on board of education of independent school district while spouse is serving on a separate board of education of an area vocational-technical school district. *August 31, 1983 (AG Op. No. 83-177)*

Marriage of a board member's daughter to a member's nephew is not relationship of affinity or consanguinity of board members. *AG Op. January 9, 1976*

Member of board of education elected in 1961 ceased to be de jure member when he married sister of board member elected in 1961, but such marriage did not disqualify latter member from continuing to serve. *AG Op. August 10, 1962* Person elected as member of board of education cannot qualify for such office while his aunt is serving on the board of education and office becomes vacant upon expiration of 30 days, unless his aunt resigns before expiration of such 30-day period. *AG Op. April 9, 1953*

No conflict between statute prohibiting relatives within the third degree from serving on the same board of education, and the nepotism law prohibiting public officers from employing relatives within the third degree. *AG Op. March 4, 1953*

Where "A" was a school board member before the school election in March and at the March election of that year, his father-in-law, "B" was elected to that board and in the following year "A's" term of office expired and he was re-elected, "A" would be legally entitled to serve as a member of said board and "B," his father-in-law, would not be eligible to serve. *AG Op. August 8, 1941*

Section 61. Employment of Relative of Member of Board of Education.

A. Except as otherwise provided in this section, no person may be employed or put under contract by a school district if that person is related to a member of the board of education of that school district within the second degree of consanguinity or affinity. A teacher or employee already under contract to or otherwise employed by the school district at the time the relationship is established may continue in said employment. Except as otherwise provided, a board member already serving at the time the relationship is established may serve out the term for which the member was elected but shall not be eligible to be a candidate for or serve successive terms of office for which the member may be elected.

B. The provisions of this section shall not prevent a board member from serving successive terms of office if otherwise eligible under the provision of Section 5-113 of this title. No member of the board of education who has resigned from the board before the term of the person has expired may be reappointed to the board to complete the remainder of the term if a teacher or employee related to the resigned member of the board within the second degree of consanguinity or affinity was put under contract or otherwise employed by the school district after the board member resigned.

C. The provisions of this section shall not prevent a person who is related to a member of the board of education within the second degree of consanguinity or affinity from being employed by the school district as a substitute teacher pursuant to the provisions of Section 6-105 of this title or as a temporary substitute support employee if the school district has an Average Daily Membership (ADM) of less than five thousand (5,000).

D. Any member of a board of education who is related to a teacher or other employee of the district within the second degree of consanguinity or affinity shall not attend or participate in any regular or executive session of the board held to consider any personnel matter or litigation relating to said teacher or employee. The member may vote on collective bargaining agreements or the renewal of contracts as a group if the vote is necessary to form a quorum of the board of education members. If more than one member of the board of education is related to a teacher or employee, only the minimum number of those members which is necessary to form a quorum shall be allowed to vote. Each board of education so affected shall adopt a written policy establishing procedures on when such a member may vote on the renewal of contracts or collective bargaining agreements.

E. Any member of a board of education who violates the provisions of this section shall be subject to the penalties prescribed by Sections 485 and 486 of Title 21 of the Oklahoma Statutes. **(70-5-113.1)**

Note: See Section 732 for additional annotations regarding prohibited relationships.

Section 5-113 specifically states who is ineligible for candidacy. Section 5-113.1 specifically states who may be employed by the school district. Section 5-113.1 states that it is not to be construed to prevent a individual from being a candidate. But that statement does not lend itself to allowing family members to be candidates for school board. Instead it is an acknowledgment that school board eligibility requirements are governed by a separate statute, namely Section 5-113. In fact, it is clear that the intent behind Section 5-113 was to determine and set forth the eligibility requirements for individuals seeking to run for a seat on the school board. The two provisions are consistent with one another. *Sharp v. Tulsa County Election Board*, 890 P.2d 836 (Okla.1994)

School district may approve a cooperative agreement with Department of Human Services ("DHS") even if DHS intends to assign an employee who is spouse of board member to perform services required under the agreement. *March 30, 2004 (AG Op. No. 04-11).*

Appointment of board member's wife to Staff Development Committee violates nepotism statutes. *January 27, 1982 (AG Op. No. 81-288)*

Section 62. Excluding Litigious Board Member from Proceedings.

Any school board member who, before serving or while serving on the board of education, initiated litigation against the school district, school board of education, or an individual board member of the board of education on which he/she serves, or who is a governing member of a group, organization, or entity that has authorized and initiated litigation against that school district, school board of education, or an individual board member of the board of education on which he/she serves, may be excluded upon a majority vote of the board members from any executive session where the litigation is discussed or from any other form of participation in the board's defense of the litigation, including any vote on issues related to that legal action. **(70-5-113.2)**

> A member of the board of education may be excluded from participation and attendance at regular and executive sessions where personnel and litigation matters concerning his/her relative are subject to discussion and/or possible board action. This exclusion includes matters which affect other employees and/or teachers if the relative of the board member is included in such class. However, the member is free to attend and participate in other agenda items during regular and executive sessions even if they take place during the same meeting of the board as the excluded activity. *June 23, 1991 (AG Inf. Op. No. 91-659)*

Section 63. School District Treasurer - Assistant Local Treasurer.

A. The county treasurer of each county shall be the treasurer of all school districts in the county, except that the board of education of a school district may appoint a local treasurer for the school district and, in its discretion, an assistant local treasurer of the district, each of whom shall serve at the pleasure of the board for such compensation as the board may determine. The assistant local treasurer may perform any of the duties and exercise any of the powers of the local treasurer with the same force and effect as if the same were done or performed by the local treasurer. Before entering upon the discharge of the duties of the assistant treasurer, the assistant treasurer shall give a bond in such amount as the board of education may designate, with good and sufficient sureties to be approved by the board, conditioned for the faithful performance of his or her duties. A local treasurer or assistant local treasurer need not be a resident of the school district where appointed to serve although any local treasurer or assistant local treasurer shall be a resident of this state. Nothing herein shall prevent a local treasurer or assistant local treasurer from being appointed for more than one school district.

B. Whenever a county treasurer is designated as the treasurer for a school district, the county treasurer may elect to charge for such services. If said charges are assessed, the treasurer shall prepare a special estimate of needs each fiscal year, covering all expenditures of the office on behalf of any school districts for which the county treasurer serves as treasurer. The estimate for treasurer services shall be itemized by personal services and maintenance and operation expenditures and shall be filed with the county excise board. In reviewing and approving this estimate, the county excise board shall authorize and levy amounts for treasurer services which in the judgment of the board will be sufficient to perform the services. The board shall apportion the cost among the school districts for which the treasurer services are to be charged in the ratio which each school district's total appropriations for the preceding year bears to the total appropriations of all such school districts receiving treasurer services for the preceding year. The amounts shall be included in, or added to, the estimates of needs or budget of each such school district. The amount as approved and appropriated by the county excise board shall be paid by the school district, by appropriate warrants, to the county for deposit in the county general fund. **(70-5-114)**

> County Treasurer serves as Treasurer of area school district, without additional bond, unless board of education appoints local Treasurer. *AG Op. September 25, 1968*

> School District treasurer must handle Federal funds for vocational work-study programs allocated to district to provide employment to students needing earnings to continue to work toward their vocational objectives. *AG Op. April 19, 1966*

> County Treasurer can pay warrant not bearing personal endorsement of payee. *AG Op. March 3, 1959*

> Only duty of school district treasurer in registering warrant is to determine whether warrant is within appropriation, and he has no duty to determine whether warrant, regular on its face, was issued in payment of a lawful claim. *AG Op. December 14, 1955*

> School District electors cannot elect the school district treasurer. *AG Op. February 17, 1951*

Section 64. Local Treasurer - Surety Bond - Duties - Cash and Investment Ledgers.

A. Unless the context clearly shows otherwise, the term "treasurer", as used in this section, includes a county treasurer acting as the treasurer of a school district pursuant to the provisions of Section 5-114 of this title. The treasurer so appointed shall execute, before entering upon the duties of the office of the treasurer, a surety bond in an amount which it is estimated by the board of education the treasurer will have on hand at any one time during the current year, and the amount of securities held as investments shall not be considered. The board of education is empowered to require the treasurer to increase or decrease the bond of the treasurer as the amount of funds on hand may require. Provided, the bond of a school district shall not, in any event, be required to be in an amount greater than that of the county treasurer of the county. The premium on the bond shall be paid by the board of education out of district funds. Provided, however, the treasurer of such district shall require the depository wherein school district funds are deposited to insure or guarantee the deposit by proper securities, which shall be of the same class of securities as are required to insure deposits of county treasurers of the various counties, and the securities shall be pledged, taken and kept in the manner provided by Sections 517.1 through 517.7 of Title 62 of the Oklahoma Statutes.

B. In all districts which are permitted by law to select a local treasurer, the county treasurer shall act as treasurer thereof until such time as a local treasurer shall be appointed and has executed the surety bond required by this section. In no instance in which the county treasurer is the treasurer of any school district shall any additional bond be required, but the official bond of the county treasurer shall stand for any and all funds and securities coming into the hands of the county treasurer.

C. The local treasurer of a district, when required by the board of education, shall prepare and submit in writing a report of the condition of the finances of the district and shall produce at any meeting of the board or to any committee appointed for the purpose of examining the accounts of the treasurer all books and papers pertaining to the office of the treasurer. Upon failure to make reports as provided for herein or as may otherwise be required by law, the board may at any regular or special meeting thereof summarily suspend the treasurer, and while so suspended the treasurer shall perform no act pertaining to the office of the treasurer. Such suspension shall continue until ended by order of the board or by judgment of a court of competent jurisdiction.

D. The local treasurer of a school district shall keep a separate cash ledger for each fund in the custody of the treasurer. The local treasurer shall enter each collection and disbursement in the cash ledger of the applicable fund by recording the date and classification of each transaction and such other information as may be deemed desirable. Additional ledgers shall also be maintained to record the investments made from each fund. Such investment ledgers shall disclose the date, description and principal amount paid for each investment purchased and the date and principal amount received for each investment liquidated.

E. Upon suspension by the board, the treasurer shall immediately turn over to the board of education or to the acting treasurer if one has been appointed by the board all books and papers and other property pertaining to the office of the treasurer.

F. Except as otherwise provided by law, no treasurer of any district shall pay out school district funds in the care of the treasurer except upon warrants signed by the proper school district officials authorized by the law to sign such warrants, provided, this restriction shall not apply to sinking funds or to the investment of school district funds. Authorized sinking fund payments and payment for investments or receipt of liquidated investments may be made by check, wire transfer or other instrument or method through the Federal Reserve System.

G. The board of education shall, each month, set aside funds to an operating account and to an investment account. Investments by the treasurer shall be made in accordance with a written policy adopted by the board of education. The written investment policy shall address liquidity, diversification, safety of principal, yield, maturity, quality of the instrument, and capability of investment management. Acting within the investment policy, the treasurer shall place primary emphasis on safety and liquidity in the investment of funds. Taking into account the need to use sound investment judgment, school districts shall, to the extent practicable, use competitive bids when they purchase direct obligations of the United States Government or other obligations of the United States Government, its agencies or instrumentalities. Such system shall be designed to maximize yield within each class of investment instrument, consistent with the safety of the funds invested. The board of education must review the investment performance of the treasurer on a regular basis and no less than each month. The treasurer of every school district shall invest the full amount of the investment account in:

1. Direct obligations of the United States Government to the payment of which the full faith and credit of the Government of the United States is pledged; provided, a treasurer of a school district who has completed the program pursuant to the provisions of subsection H of this section may invest funds in the investment account in other obligations of the United States Government, its agencies or instrumentalities;

2. Obligations to the payment of which the full faith and credit of this state is pledged;

3. Certificates of deposits of banks when such certificates of deposits are secured by acceptable collateral as in the deposit of other public monies;

4. Savings accounts or savings certificates of savings and loan associations to the extent that such accounts or certificates are fully insured by the Federal Savings and Loan Insurance Corporation. Provided, that the income received from the investments may be placed in the general fund of the governmental subdivision to be used for general governmental operations;

5. Repurchase agreements that have underlying collateral consisting of those items specified in paragraphs 1 and 2 of this subsection including obligations of the United States, its agencies and instrumentalities, and where the collateral has been deposited with a trustee or custodian bank in an irrevocable trust or escrow account established for such purposes;

6. County, municipal or school district direct debt obligations for which an ad valorem tax may be levied or bond and revenue anticipation notes, money judgments against such county, municipality or school district ordered by a court of record or bonds or bond and revenue anticipation notes issued by a public trust for which such county, municipality or school district is a beneficiary thereof. All collateral pledged to secure public funds shall be valued at no more than market value. The income received from an investment may be placed in the general fund of the governmental subdivision to be used for general governmental operations, the sinking fund, the building fund, or the fund from which the investment was made;

7. Money market mutual funds regulated by the Securities and Exchange Commission and which investments consist of obligations of the United States, its agencies and instrumentalities, and investments in those items and those restrictions specified in paragraphs 1 through 6 of this subsection;

8. Warrants, bonds or judgments of the school district; or

9. Qualified pooled investment programs, the investments of which consist of those items specified in paragraphs 1 through 8 of this subsection, as well as obligations of the United States agencies and instrumentalities, regardless of the size of the district's budget. To be qualified, a pooled investment program for school funds must be governed through an interlocal cooperative agreement formed pursuant to Section 5-117b of this title, and the program must competitively select its investment advisors and other professionals. Any pooled investment program used must be approved by the board of education.

H. The board of education is hereby empowered to require the treasurer to satisfactorily complete an investment education program approved by the State Board of Education and the State Board of Career and Technology Education. Such program shall be designed to allow treasurers to make informed decisions regarding the safety, return, liquidity, costs and benefits of various investment options allowed under this section.

I. The income received on an investment may be placed in the fund from which the investment was made, the general fund, the building fund, or the sinking fund. **(70-5-115)**

See Sections 646.2-646.8, Security for Local Public Deposits Act. See also Sections 663 & 664, Sinking Fund.

The statutory provision allowing a school treasurer to allocate interest earned on the building fund or the sinking fund violates Article X, Section 19 of the Oklahoma Constitution. *October 2, 2000 (AG Op. No. 00-48) (non-binding advisory opinion).*

School districts may not, as a general rule, deposit funds in financial institutions which are located outside the state; however, school districts may deposit district funds in building and loan associations, i.e., savings and loans, located outside of Oklahoma, so long as, and to the extent that, such deposits are federally insured [pursuant to 62-513]. *June 24, 1991 (AG Inf. Op. No. 91-608)*

School district treasurer (1) must invest funds held in investment account; (2) has authority to execute orders to buy and/or sell investment instruments through a licensed broker and pay a reasonable commission or fee for this service; (3) may permit a Federal Reserve bank or a registered broker or brokerage firm to hold investments for the district; and (4) may not invest in money market mutual funds. *June 19, 1990 (AG Op. No. 89-64)*

School District cannot establish payroll cash account by issuing purchase orders against accounts within General Fund, depositing warrants in payroll account, and writing payroll checks against payroll account. *AG Op. June 23, 1972*

County Treasurer serves as Treasurer of area school district, without additional bond, unless board of education appoints local Treasurer. *AG Op. September 25, 1968*

Section 65. Repealed.

Section 65.1. Payment of Warrants When Insufficient Funds.

Upon the expiration of the term of office, the treasurer shall deliver check or warrant registers to the succeeding treasurer, and each successor in office shall act as though check or warrant entries were registered by the successor, who shall continue registration of all district checks or warrants. If a check or warrant cannot be paid for want of sufficient funds, a district may enter into an agreement not to extend beyond the current fiscal year with the depository bank to honor payment of these checks at an annual rate of interest as negotiated by the district and depository bank, which shall not exceed a rate equal to five percent (5%) above the average United States Treasury Bill rate of the preceding calendar year as determined by the State Treasurer on the first regular business day of each year. **(70-5-115b)**

Section 66. Oath of Office.

Each member of the board of education and the treasurer and assistant treasurer of a school district shall take and subscribe to the following oath:

"I, _____ (Name of officer), hereby declare under oath that I will faithfully perform the duties of _____ (Name of position) of_____ (Name of school district) to the best of my ability and that I will faithfully discharge all of the duties pertaining to said office and obey the Constitution and laws of the United States and Oklahoma." **(70-5-116)**

See also Section 742 for additional oath.

Section 67. Requirements for Bonds for Employees and Officers.

A. The superintendent and any financial officer of a school district shall be required to furnish a surety bond in the penal sum of not less than One Hundred Thousand Dollars ($100,000.00) or an amount otherwise set by law or set by the State Board of Education, to be approved as provided by law, and to assure the faithful performance of the duties of the covered officer and employees.

B. Whenever the superintendent or any officer or other employee of any school district is required to furnish a surety bond as a prerequisite to employment as provided for in this section or any other law, the requirement as to terms, conditions, penalty, amount or quality or type of surety shall be deemed to mean the furnishing of a separate bond or surety contract for each individual officer or employee, or the furnishing of a "blanket bond". For purposes of this section, "blanket bond" means a school district officer and employees blanket position bond which covers all officers and employees up to the penalty of the bond for each officer and employee and the full penalty of the bond is always enforced during its term and no restoration is necessary and there is no additional premium after a loss is paid.

C. All surety bonds as required by this section or other laws shall be furnished by a company duly qualified under the insurance laws of this state and shall be purchased by the school district. Each surety bond shall be payable to the school district and, whenever possible, conditioned on the faithful performance of the duties of the individuals covered during their employment or term of office and that they will properly account for all monies and property received by virtue of their position or employment. **(70-5-116a)**

Section 67.1. Forfeited Bonds.

A. When a bond is forfeited due to illegal activity of a school district officer or employee and an audit performed by the Office of the State Auditor and Inspector reported the illegal activity, the school district shall forward ten percent (10%) of the amount of the forfeited bond to the State Board of Education for deposit to the School Investigative Audit Revolving Fund.

B. 1. Every person convicted of the crime of theft, embezzlement, conversion, or misappropriation of school district funds shall be assessed an amount equivalent to ten percent (10%) of any court-ordered restitution costs.

2. The assessment shall be mandatory and in addition to and not in lieu of any fines, restitution costs, other assessments, or forfeitures authorized or required by law for the offense. The assessment required by this subsection shall not be subject to any order of suspension. The court shall order either a lump-sum payment or establish a payment schedule.

3. Willful failure of the offender to comply with the payment schedule shall be considered contempt of court.

4. For purposes of collection, the assessment order shall not expire until paid in full, nor shall the assessment order be limited by the term of imprisonment prescribed by law for the offense, nor by any term of imprisonment imposed against the offender, whether suspended or actually served.

5. The assessment provided for in this subsection shall be collected by the court clerk as provided for collection of fines and costs. When assessment payments are collected by the court clerk pursuant to court order, the funds shall be forwarded to the State Board of Education for deposit into the School Investigative Audit Revolving Fund created by this section.

C. 1. There is hereby created in the State Treasury a revolving fund for the State Board of Education to be designated the "School Investigative Audit Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies paid to and received by the State Board of Education from school districts, officers, or employees for the performance of audits, for the forfeiture of bonds, or for assessments ordered in addition to court-ordered restitution costs, and monies appropriated or transferred to the fund by the Legislature.

2. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the State Board of Education to reimburse the Office of the State Auditor and Inspector for costs incurred in the performance of special audits conducted pursuant to the provisions of Section 213 of Title 74 of the Oklahoma Statutes.

3. Prior to approval of any payment from this fund, the State Board of Education shall determine that a school district that is liable for expenses incurred due to the performance of an audit is unable to pay such expenses. Payments from this fund shall only be made to the extent that monies are available in the fund. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment. **(70-18-118.1)**

Section 68. Powers and Duties.

A. The board of education of each school district shall have power to:

1. Elect its own officers; provided that the chair of the board authorized in Section 5-107B of this title shall be elected by the electors of the school district;

2. Make rules, not inconsistent with the law or rules of the State Board of Education, governing the board and the school system of the district;

3. Maintain and operate a complete public school system of such character as the board of education shall deem best suited to the needs of the school district;

4. Designate the schools to be attended by the children of the district;

5. Provide and operate, when deemed advisable, cafeterias or other eating accommodations, thrift banks or other facilities for the teaching and practice of thrift and economy, bookstores, print shops, and vocational and other shops;

6. Provide informational material concerning school bond elections and millage elections, including but not limited to all pertinent financial information relative to the bond issue, a statement of revenue sources necessary to retire proposed bonds, a statement of current bonded indebtedness of the school district, and a statement of proposed use of funds to be generated by the proposed bond issue. The informational material shall not contain the words "vote yes" or "vote no" or any similar words or statement any place on such informational material;

7. Purchase, construct or rent, and operate and maintain, classrooms, libraries, auditoriums, gymnasiums, stadiums, recreation places and playgrounds, teacherages, school bus garages, laboratories, administration buildings, and other schoolhouses and school buildings, and acquire sites and equipment therefor;

8. a. Insure the school district or its employees against any loss, damage or liability as defined by Sections 702 through 708 of Title 36 of the Oklahoma Statutes, or other forms of insurance provided for in Title 36 of the Oklahoma Statutes.

b. Subject to the restrictions of liability in the Governmental Tort Claims Act:

(1) insure the school district against all or any part of any liability it may incur for death, injury or disability of any person, or for damage to property, either real or personal,

(2) insure any employee of the school district against all or any part of the employee's liability for injury or damage resulting from an act or omission in the scope of employment, or

(3) insure against the expense of defending a claim against the school district or its employee, whether or not liability exists on such claim.

c. As used in this subsection, "employee" means any person who has acted in behalf of a school district, whether that person is acting on a permanent or temporary basis with or without being compensated or on a full-time or part-time basis. Employee also includes all elected or appointed officers, members of governing bodies of a school district, and persons appointed, and other persons designated by a school district to act in its behalf.

d. The cost or premium of any such insurance is a proper expenditure of the school district.

e. Any insurance authorized by law to be purchased, obtained or provided by a school district may be provided by:

(1) self-insurance, which may be, but is not required to be, funded by appropriations to establish or maintain reserves for self-insurance purposes. Any self-insurance reserve fund shall be nonfiscal and shall not be considered in computing any levy when the school district makes its annual estimate for needed appropriations,

(2) insurance in any insurer authorized to transact insurance in this state,

(3) insurance secured in accordance with any other method provided by law, or

(4) any combination of insurance authorized by this section.

f. Two or more school districts or public agencies, by interlocal agreement made pursuant to the Interlocal Cooperation Act, may provide insurance for any purpose by any one or more of the methods specified in this section. The pooling of self-insured reserves, claims or losses among governments as authorized in this section shall not be construed to be transacting insurance nor otherwise subject to the provisions of the laws of this state regulating insurance or insurance companies. Two or more school districts may also be insured under a master policy or contract of insurance. Premium costs may be set individually for each school district or apportioned among participating school districts as provided by the master policy or contract;

9. Acquire property by condemnation proceedings in the same manner as land is condemned for railroad purposes. School district funds may be used to erect buildings on leased land on which other buildings have been erected prior to April 3, 1969, or on land which is leased from a governmental entity;

10. Lease real or personal property to the state or any political subdivision thereof or a not-for-profit entity operating pursuant to Section 868 of Title 18 of the Oklahoma Statutes for nominal cash consideration for so long as the use of the property by the lessee substantially benefits, in whole or in part, the same public served by the school district;

11. Dispose of personal or real property no longer needed by the district by sale, exchange, lease, lease-purchase, sale and partial lease back, or otherwise. Real property shall be conveyed pursuant to a public sale, public bid, or private sale; provided however, unless otherwise prohibited by law, the board of education of a consolidated or annexed school district or any other school district may convey real property to a local political subdivision or to an educational institution within The Oklahoma State System of Higher Education without consideration. Prior to the sale of any real property, the board of education shall have the real property appraised. The appraisal shall be confidential until the real property is sold. When the real property is sold, the board of education shall make the appraisal available for public inspection. Prior to the conveyance of any real property by private sale, the board of education shall have offered the real property for sale by public sale or public bid. Any conveyance of real property by private sale to a nonprofit organization, association, or corporation to be used for public purposes, unless for exchange, shall contain a reversionary clause which returns the real property to the board of education upon the cessation of the use without profit or for public purposes by the purchaser or the assigns of the purchaser;

12. Purchase necessary property, equipment, furniture, and supplies necessary to maintain and operate an adequate school system;

13. Incur all expenses, within the limitations provided for by law, necessary to perform all powers granted by the provisions of this section;

14. Contract with and fix the duties and compensation of physicians, dentists, optometrists, nurses, attorneys, superintendents, principals, teachers, bus drivers, janitors, and other necessary employees of the district;

15. Establish a written policy for reimbursement of necessary travel expenses of employees and members of the board. The policy may include in-district travel from the site of employment assignment which is necessary in the performance of employment duties. The written policy shall specify procedures, contain documentation requirements, and may include payment of meal expenses during authorized travel on a per diem allowance basis rather than itemized documentation;

16. Pay necessary travel expenses and other related expenses of prospective employees for sponsored visits to the school district pursuant to a written policy specifying procedures containing documentation requirements equal to or greater than the requirements specified by law for state employees in the State Travel Reimbursement Act;

17. Provide for employees' leaves of absence without pay;

18. Exercise sole control over all the schools and property of the district, subject to other provisions of the Oklahoma School Code;

19. Allow district-owned school buses to be used for transportation of students from other districts or educational institutions while within the district on educational tours. This shall not restrict the authority of the board to authorize any other use of such buses which may now be permitted by law or rule of the State Board of Education;

20. Enter into contractual agreements with the board of trustees of a multicounty library system, as defined in Section 4-103 of Title 65 of the Oklahoma Statutes, a city-county library commission, as defined in Section 152 of Title 65 of the Oklahoma Statutes, or a rural single county library system, as defined in Section 1-104 of Title 65 of the Oklahoma Statutes, on such terms as may be mutually agreed, except no district board of education may enter into any agreement under which the library services for the school would be provided at any site other than the school site or which would result in library services that do not meet accreditation standards as required by law or rule;

21. Perform all functions necessary to the administration of a school district in Oklahoma as specified in the Oklahoma School Code, and in addition thereto, those powers necessarily implied but not delegated by law to any other agency or official;

22. Prepare and distribute at the expense of the school district any and all material which has the purpose of informing the public about district activities;

23. Solicit and accept any gift, grant, or donation of money or property for the use of the school district. Any gift, grant, or donation of money may be deposited in the general fund or building fund of the school district; and

24. Pay necessary meal and lodging expenses of school district students and sponsors involved in authorized school-sponsored cocurricular activities. The board of education shall establish a written policy for reimbursement of necessary meal and lodging expenses of school district students and sponsors. The written policy shall specify procedures, contain documentation requirements, and designate the funds from which reimbursement may be made. Reimbursement may be made from the General Fund.

B. The board of education of any school district may rent real and personal property, if such items are necessary for the operation of the school, and pay the rental charges for the usage during any fiscal year, or portion thereof, out of appropriations made and approved for current expense purposes during the fiscal year. Any rental contract extending beyond June 30 of the fiscal year shall be void unless it contains provisions for mutual ratification of renewal pursuant to the conditions provided for in this subsection. It is the intent of this subsection to authorize boards of education to enter into lease contracts but not to incur any obligation against the school district in excess of the income and revenue provided for such purposes for the fiscal year in which the lease contract is operative. Any lease or lease-purchase agreement entered into by any board of education shall state the purchase price of real or personal property so leased. The lease or lease-purchase shall not be extended so as to cause payment of more than the original purchase price of the real or personal property, plus interest not to exceed the legal rate. When the purchase price plus interest has been paid, the property shall belong to the lessee and the lessor shall deliver a deed or bill of sale to the property to the lessee. When any real or personal property has been leased or rented during any fiscal year pursuant to the provisions of any contract which permits continuance of the rental for the remainder of the fiscal year, the renting or leasing of the property shall be continued for the remainder of the fiscal year unless the board of education renting or leasing the same certifies by proper resolution entered in the minutes of the board of education that the continuance of the rental is unnecessary and contrary to the public interest. Any lease-purchase agreement entered into shall include the right of a school district to acquire buildings, equipment or other facilities or discrete components thereof or improve school sites through a lease-purchase agreement. A school district may use proceeds derived from the sale of bonds as authorized by Section 26 of Article X of the Oklahoma Constitution to make lease-purchase payments, including interest, under a lease-purchase agreement. For purposes of this subsection, the term "acquired" as used in Section 26 of Article X of the Oklahoma Constitution shall mean the possession, control, or power to dispose of personal or real property.

C. The boards of education of two or more school districts may enter into cooperative agreements and maintain joint programs including, but not limited to, courses of instruction for handicapped children, courses of instruction in music and other subjects, practical instruction for trades and vocations, practical instruction in driver training courses, and health programs including visual care by persons legally licensed for such purpose, without favoritism as to either profession. The revenues necessary to operate a joint program approved in cooperative agreements, whether from federal, state or local sources, including the individual contributions of participating school districts, shall be deposited into a fund separate from all other appropriated funds. The beginning fund balance each year, combined with all actual revenues, including collected and estimated revenues, must be appropriated before being expended. Purchase orders shall be issued against available appropriations and, once goods or services have been received, either payable or nonpayable warrants shall be issued in payment of all purchase orders. The fund shall be reported as a separate appropriated fund in all the financial reports of the school district which is chosen by the other school districts to keep the accounting records of the joint program.

D. The boards of education of two or more school districts may enter into a mutual contract or separate contracts with a superintendent, administrator, or teacher or with a person to provide support services, to serve as superintendent, administrator, or teacher, as appropriately qualified, or to provide support services, for each contracting district upon such terms and conditions as the parties may agree. Nothing in this act shall be construed to authorize or require annexation or consolidation of any school districts or the closing of any school site except pursuant to law as set forth in Section 7-101 et seq. of this title.

E. Any school district may operate or maintain a school or schools on any military reservation which is within the boundaries of the school district or which is adjacent to the school district, and provide the instruction in the school or schools to children of personnel on the military reservation and, in doing so, shall conform to all federal laws and requirements.

F. The board of education of each school district shall adopt and maintain on file in the office of the superintendent of schools appropriate personnel policy and sick leave guide. The guide shall be made available to the public. **(70-5-117)**

ATHLETICS:

OSSAA is a voluntary organization. Absent fraudulent collusive, unreasonable, arbitrary or capricious decisional process, a court may not overturn a voluntary association's enforcement of its rules. The Association must be allowed to enforce its rules and orders without undue interference by the courts. *Morgan v. Oklahoma Secondary School Activities Association*, 2009 OK 21, 207 P.3d 362.

School districts have the implied power to charge and collect broadcast rights fees. *Oklahoma Sports Properties, Inc. v. ISD No. 11 of Tulsa County*, 1998 OK CIV APP 40, 957 P.2d 137.

Where a school board has become a member of a voluntary association which regulates school activities the member school is bound by the association's rules. A local school district which is a member of the voluntary association would be prohibited from promulgating a rule which requires students wishing to participate in a program of one hundred (100) hours of basketball practice during the summer when school is not in session, where school board rule is contrary to the rules of the voluntary association. *June 3, 1987* (*AG Op. No. 87-18*)

Oklahoma Secondary School Activities Association rule placing age restriction on student's eligibility for athletics is lawful. *March 31, 1977 (AG Op. No. 77-126*)

BENEFITS:

A board of education may adopt a written policy for reimbursement of travel expenses which includes allowing per diem meal expense reimbursement to employees and members of the board, subject to the documentation requirements of the State Travel Reimbursement Act. *January 29, 1999 (AG Op. No. 98–42)*

A school board is without authority to pay moving expenses of teachers and administrators hired by the school district. However, this would not preclude a district from agreeing to increase the salary for the incoming administrator in an amount related to his proposed moving expenses. Since school districts have some latitude in their authority to negotiate contracts, the negotiation for a salary that includes monies to cover moving expenses would not be prohibited. *September 27, 1991 (AG Inf. Op. No. 91-571)*

A school district may reimburse a teacher for itemized and documented travel expenses provided such expenses are related to the teacher's duties as expressed in the contract with the school district. *April 10, 1991 (AG Inf. Op. No. 90-670)*

If the teacher's attendance at such conference constitutes a contractual duty of the teacher, the reimbursement of itemized and documented expenses may be made. However, if the teacher attends such a conference on personal business leave as provided in 70 O.S. 1981, § 6-104, or on leave without pay as provided in 70 O.S. 1981, § 5-117 (A) (16) then the school district may not compensate the teacher for itemized and documented expenses. *April 10, 1991 (AG Inf. Op. No. 90-670)*

Independent school district may offer employees a "cafeteria plan" and select provider subject to statutory limitations on collective bargaining and purchasing procedures. Fees to offset the cost of administering such a plan may be collected from the companies providing the benefits. *July 24, 1989 (AG Op. No. 88-43)*

School districts may purchase health insurance for students if they meet the statutory definition of "employees." *February 6, 1990 (AG Op. No. 86-58)*

A school board is without authority to pay moving expenses of teachers and administrators hired by the school district. *October 1, 1970 (AG Op. No. 70-197)*

BUILDINGS/CONSTRUCTION:

School district has statutory authority to rent privately owned classroom space. *November 10, 1999 (AG Op. No. 99-73)*

"Engineer in attendance" means engineer employed by School District who has assumed and is exercising the engineering functions of a construction project. *July 2, 1979 (AG Op. No. 79-161)*

District erecting building costing more than $40,000 and having engineer in attendance is not required to employ an architect. *December 12, 1978 (AG Op. No. 78-306)*

Amount contractor has not paid for labor and materials on public works project may be withheld from contractor's current earnings on project. *March 1, 1977 (AG Op. No. 77-309)*

CONTRACTS:

A multi-year lease contract between a school district and a vendor which contains a nonappropriation clause is not authorized. A multi-year contract between a school district and a vendor must contain a provision for mutual ratification of renewal, which is contrary to the operation of a valid nonappropriation clause. *April 27, 2005 (AG Op. No. 05-14)*

Board of Education has authority to enter into a compromise or settlement in lawsuit pending against it. *July 9, 1979 (AG Op. No. 79-191)*

Interlocal Cooperation Act permits agreements between independent school district and city government when purpose behind agreement is to further efficient use of respective powers enjoyed by each. *June 14, 1979 (AG Op. No. 79-147)*

Lawful for board of education to contract with law firm on contingent fee basis. *December 12, 1978 (AG Op. No. 78-158)*

Const. X §26 and 70 O.S. 5-117 Nonappropriation addenda purporting to extend contract beyond current fiscal year is not sufficient to ratify or confirm renewal or extension for lease of photocopiers. District not liable for any payments owed or unpaid where unratified. Where school district accepted benefits of use of copier and vendor accepted payment, the parties mutually confirmed contract extensions. *GE Capital Information Technology Solutions v. OKCPS, 2007 OK CIV APP 117*

ELECTIONS/POLITICAL ACTIVITIES:

School boards have the implied power to lobby the Legislature, and power to lobby is essential to purpose of school board. Thus, a private association representing school board members may expend association funds to lobby the Legislature regardless of the fact that some of funds are derived from dues paid from public funds. *May 13,1996 (AG Op. No. 95-14)*

There is no statutory or constitutional authority for officials to use public funds to advocate a specific election result. Generally, public funds cannot be used to promote a specific election result unless there are particular factual circumstances which create an exception. Use of public funds to oppose or support matters referred to the voters by initiative or referendum is specifically prohibited by 26 O.S., §16-119. That statute, however, only applies to school bond elections that are referred to the voters by means of initiative or referendum. *June 23, 1992 (AG Op. No. 91-27)*

Constitution prohibits any person from displaying on a vehicle owned by a public school district a bumper sticker promoting a candidate for political office. *October 28, 1986 (AG Op. No. 86-22)*

School district funds may be expended to provide informational material concerning school bond elections; and medium by which material is provided is left to discretion of board of education. *December 20, 1983 (AG Op. No. 83-115)*

Political activities of school administrators and teachers in school board elections may be restricted by Board of Education. *April 29, 1977 (AG Op. No. 77-142)*

MISCELLANEOUS:

Oklahoma school districts lack the legal authority to enter into "swap" or "derivative financial product" agreements, as that power is beyond that necessary or implied to carry out the powers expressly granted to school districts. *November 28, 2005 (AG OP No 05-43*)

A school district which is the subject of a grand jury investigation has the authority to hire legal counsel to represent and advise it with regard to the grand jury proceedings and the matters being investigated. Such authority includes the authority to have legal counsel advise and assist individual members of the board of education and employees of the district to the extent that those individuals are acting and have acted in good faith in the course of their employment. *July 26, 1996 (AG Op. No. 96-43)*

Statute requiring State-owned automobiles to have certain markings does not apply to automobiles owned by school districts or area school districts. *January 27, 1984 (AG Op. No. 83-86)*

Advertising merits of an institution by schools furnishing common education is unauthorized. *October 20, 1980 (AG Op. No. 80-236)*

Cost of publication and informational requirements of Title 74, Sections 3103 and 3015 Okla. Stat., do not apply to school districts. *April 4, 1980 (AG Op. No. 80-61)*

Surrogate parent of handicapped child receiving educational services is not insulated from legal liability for failure to exercise reasonably care in performance of duties undertaken for the child. *April 30, 1979 (AG Op. No. 79-84)*

State may not lawfully administer or otherwise provide educational services for private school children under Title IV programs. *April 30, 1979 (AG Op. No. 79-60)*

Political subdivisions are not exempt from collecting and remitting sales tax on sales made by such political subdivisions. *March 31, 1977 (AG Op. No. 77-107)*

Fee may not be charged for any course or activity, whether "required" or "nonrequired" course or activity. *January 28, 1977 (AG Op. No. 76-322)*

Parking fees may be charged by District for student vehicles. *January 28, 1977 (AG Op. No. 76-322)*

POWERS OF BOARD IN GENERAL:

A school district is authorized to expend monies to effectuate the purposes of the district and is not prohibited from using credit cards as a method of payment. *June 27, 2001 (AG Op. No. 01-30)*

Member of school district's board of education has no statutory authority to encumber funds or expend funds solely on own initiative. Board may, by majority vote at lawfully called meeting, ratify unilateral action of board member. *May 26, 2000 (AG Op. No. 00-32).*

A school board does not have either the express or implied power to appropriate public funds in support of a local school foundation. To construe the statutes as allowing a board such power would violate the Constitutional provision prohibiting the Legislature from authorizing a school district to appropriate money or loan its credit to any corporation, association, or individual. *May 20, 1998 (AG Op. No. 98-7).*

A school district has no authority to reimburse an individual school board member for legal expenses incurred in defending criminal charges brought against the member for alleged violations during the performance of the member's duties even if the charges are dismissed. *January 29, 1997 (AG Op. No. 96-101)*

Formal board approval of a contract for services was not required because 1) the contract was made by a "proper officer" in carrying out the officer's express authority; 2) there was no fraud; 3) the existence of the contract and the receipt of services were disclosed to the Board by the submission of a purchase order; 4) partial payment of the contract was approved by the Board; and 5) the District received and retained the benefits of the contract. *Education Service Center v. McLoud Public Schools*, 932 P.2d 37 (Okla. App. 1996)

While the Oklahoma School Code does not directly address a reduction in force (RIF), a school district may exercise its express powers and eliminate a subject from a curriculum if it is deemed best suited to the needs of the district. *Patterson v. Board of Education of Francis Tuttle Vocational Technical School District No. 21*, 894 P.2d 433 (Okla. App. 1994)

School board has and can exercise those powers that are granted in express words, that are fairly implied in or necessarily incidental to the powers expressly granted, and that are essential to the declared objects and purposes of the corporation. *Carlyle v. ISD No. I-71*, 811 P.2d 618 (Okla. App. 1991)

A school district is without power to act as a motor vehicle license agent. *December 18, 1986 (AG Op. No. 86-109)*

School districts' duties and powers are established by statute and do not include installation and maintenance of traffic control devices or measures, lighting, or police protection on public streets. *Ochoa v. Taylor*, 635 P.2d 604 (Okla.1981)

School boards may not exercise unrestricted authority over persons; school boards possess only that power derived from statutory enactment. *ISD No. 8 v. Swanson*, 553 P.2d 496 (Okla.1976)

PROPERTY:

While a consolidated or annexed school district may not lawfully convey real property to an Oklahoma institution of higher education or a college technology center school district without consideration, it may lawfully convey real property to an technology center school district, established pursuant to 70 O.S. Supp.2008, §14-108, without consideration. *(AG Op. No. 09-2)*

A school district may not lawfully pay interest on its lease-purchase obligations from the proceeds of bonds issued pursuant to Okla. Const. art. X, § 26, but must pay such interest from money available in the district's general fund or its capital improvement fund. *December 19, 2007 (AG Op. No. 07-42)*

When annexation of a school district occurs, the annexing school district can convey real property to a municipality or other local political subdivision in which the property is located without consideration. *August 31, 1998 (AG Op. No. 98-17)*

Local school board is only one to exercise control over school property; board may grant permission for municipal annexation of school property. *November 10, 1994 (AG Op. No. 94-015)*

Where lease-purchase contract exists between private party as lessor and state agency or political subdivision as lessee and contractual obligations must be performed within the year, the lessor holds merely a lien on property and governmental body is owner, making property exempt from ad valorem taxation. *March 16, 1989 (AG Op. No. 88-73)*

District receiving Government surplus property may sell such property to private individuals or interests if property has become surplus to needs of the district and sale is conducted so as to produce highest and best price. *September 10, 1982 (AG Op. No. 82-160)*

Retail liquor store cannot be established within 300 feet of property used by a public school for school purposes, whether or not a school building is located on the property. March 10, 1982 *(AG Op. No. 82-70)*

District can sell mineral interests located beneath school-owned property and has discretion in selecting manner of sale. *November 23, 1981 (AG Op. No. 81-175)*

A "public sale" of school district property to a nonprofit charitable or public educational corporation under this Section requires notice and an opportunity to bid to the public, but the notice should inform the public of the terms and conditions of the sale, including qualifications and restrictions in statute. *December 23, 1980 (AG Op. No. 80-286)*

City or city library board is not a "nonprofit charitable or public educational corporation" for purposes of public sale under this Section. *December 23, 1980 (AG Op. No. 80-286)*

Conveyances under this Section must be supported by adequate consideration determined by all circumstances and conditions surrounding transaction. *December 23, 1980* (AG Op. No. 80-286)

Lease-rental agreement may provide rate of interest not to exceed 10%; if rate is not stipulated in agreement, rate is 6%. *November 5, 1976 (AG Op. No. 76-324)*

Land owned by School District cannot be conveyed as a gift, to a city. *September 30, 1976 (AG Op. No. 76-300)*

Retail liquor store cannot be located in same block as church or school, and block is defined by reference to intersecting streets and not a linear measurement in feet. *June 11, 1979 (AG Op. No. 79-193)*

STUDENTS:

Board of Education can authorize use of students to grade papers and tests of other students. *April 27, 1983 (AG Op. No. 83-66)*

Area of student conduct is within rule-making power of local school boards. *ISD No. 8 v. Swanson*, 553 P.2d 496 (Okla.1976)

TEACHERS/EMPLOYEES:

Nothing in the United States Constitution, applicable statutes or Oklahoma case law prohibits a school district from implementing a dress code policy for employees. To be valid, a dress code must have a reasonable connection to the education function, and it must be necessary to create and preserve a proper atmosphere for learning. *December 30, 1993 (AG Inf. Op. No. 93-509)*

Any regulation promulgated by a school board prohibiting outside employment by teachers and school personnel must serve a legitimate state purpose. A prohibition against pursuit of outside employment is not, per se, impermissible; its appropriateness would be determined by the particular facts and circumstances of the situation. *March 25, 1992 (AG Inf. Op. No. 91-635)*

Board of education's authority to establish mandatory retirement age is not express, is not necessarily incidental to, and cannot be implied from provisions providing authority for adopting personnel policies; authority to establish mandatory retirement age is not essential to declared objects and purposes of school. *Carlyle v. ISD No. 1-71*, 811 P.2d 618 (Okla. App. 1991)

School board may not abdicate power to admonish, suspend, dismiss, or not reemploy teacher; such power is vested by statute and may not be submitted as part of binding arbitration. *Raines v. ISD No. 6*, 796 P.2d 303 (Okla. 1990)

Decisions statutorily vested in the exclusive authority and discretion of the school board including the decision to nonrenew the employment of a probationary teacher cannot be subject to binding arbitration pursuant to a collective bargaining agreement. *Mindemann v. ISD No. 6*, 771 P.2d 996 (Okla. 1989)

Legislator cannot be employed by a school district as a teacher when he is paid from State-appointed funds. *August 11, 1982 (AG Op. No. 82-48)*

Section 69. Manufacturers and Countries of Origin - Disclosure.

A. Any board of education for a school district may require each bidder for a school district contract for supplies, equipment or materials to provide information as to the manufacturer and country of origin of any supplies, equipment or materials for the school district as specified by labels attached to the supplies, equipment or materials where such identification is required by federal or state law.

B. Any school district contract for the purchase of supplies, equipment or materials may require the contractor to obtain from all of his subcontractors information as to the manufacturer and country or countries of origin of any such supplies, equipment or materials provided to the school district as specified by labels attached to the supplies, equipment or materials where such identification is required by federal or state law.

C. The provisions of this section shall not apply to:

1. Component parts or accessories; or

2. The purchase of supplies, equipment or material by any board of education, if such purchase is made through an open market contract or a statewide contract executed by the Department of Central Services. **(70-5-117a)**

Section 70. Interlocal Cooperative Agreements Between School Districts.

A. The boards of education of any two or more school districts may enter into an interlocal cooperative agreement for the purpose of jointly and comparatively performing any of the services, duties, functions, activities, obligations or responsibilities which are authorized or required by law to be performed by school districts of this state. Two or more school districts may enter into an interlocal cooperative agreement for the purpose of forming buying pools and purchasing cooperatives. As used in this section, "interlocal cooperative agreement" means an agreement which is entered into by the boards of education of two or more school districts pursuant to the provisions of this section. This section shall not prohibit school districts from entering into cooperative agreements authorized under Section 5-117 of this title or interfere with existing cooperative agreements between school districts. If the boards of education of any two or more school districts enter into an interlocal cooperative agreement the following conditions may apply:

1. An interlocal cooperative agreement shall establish a board of directors which shall be responsible for administering the joint or cooperative undertaking. The agreement shall specify the organization, terms, and composition of, and manner of appointment to, the board of directors and shall make provision for restructuring or terminating the board upon partial or complete termination of the agreement. The board of directors shall be selected by the board of education of each contracting school district and may include but not be limited to a board member, administrator or teacher from each contracting school district. Vacancies in the membership of the board of directors shall be filled within thirty (30) days from the date of the vacancy in the manner specified in the agreement;

2. An interlocal cooperative agreement which is optional to school districts and shall be effective only after it is approved by the State Board of Education and the board of directors may be designated as a local education agency for some or all state and federal application, reporting and auditing procedures. An interlocal cooperative board of directors that has been designated as a local education agency shall comply with state and federal law and the regulations of the State Board of Education;

3. An interlocal cooperative agreement shall be subject to change or termination by a recommendation of the State Board of Education;

4. The duration of an interlocal cooperative agreement for joint or cooperative action in performing any of the services, duties, functions, activities, obligations or responsibilities, other than the provision of special education services, which are authorized or required by law of school districts in this state, shall be for a term of not less than one (1) year. Notice of intent of a school district to withdraw from the cooperative agreement must be given no later than March 15 for the ensuing school year;

5. An interlocal cooperative agreement shall specify the method or methods to be employed for disposing of property upon partial or complete termination of the agreement;

6. Within the limitations provided by law, an interlocal cooperative agreement may be changed or modified by majority consent of the interlocal cooperative board of directors;

7. Except as otherwise specifically provided in this section, any powers, privileges or authority exercised or capable of being exercised by any school district of this state, or by any board of education thereof, may be jointly exercised pursuant to the provisions of an interlocal cooperative agreement. Federal grant money, applied for on behalf of a school district, may be disbursed directly to a interlocal cooperative with the consent of the school districts comprising the interlocal cooperative. No powers, privileges or authority with respect to the levy and collection of taxes or the application for or receipt of State Aid formula money, or the issuance of bonds shall be created or effectuated for joint exercise pursuant to the provisions of an interlocal cooperative agreement; and

8. Payments from the general fund of each school district which enters into any interlocal cooperative agreement for the purpose of financing the joint or cooperative undertaking provided for by the agreement shall be operating expenses.

B. Nothing contained in this section shall be construed to abrogate, interfere with, impair, qualify or affect in any manner the exercise and enjoyment of all the powers, privileges and authority conferred upon school districts and boards of education by law, except that boards of education and school districts are required to comply with the provisions of this section when entering into an interlocal cooperative agreement that meets the definition of an interlocal cooperative agreement. **(70-5-117b)**

Note: Amended by SB 275, Sec. 1 of the 2011 Reg. Sess.

> A school district cannot provide educational services outside of its boundaries and within the boundaries of another district for the students of the other district without a cooperative agreement or an interlocal agreement. *June 5, 1996 (AG Op. No. 96-3)*

Section 71. Cooperative Agreement with District in Adjacent State.

The board of education of any school district in this state which is contiguous to any other school district located in an adjacent state is hereby authorized to enter into contracts with the board of education of the school district located in the adjacent state for the purpose of providing better educational opportunities for students residing in both school districts. Such contracts may provide for:

1. The transfer of students between the two school districts;

2. The payment and acceptance of transfer fees for students transferred between the two school districts, the amount of which will be agreed upon by the boards of education thereof;

3. The use of district-owned school buses to transport students to and from the schools operated in the school districts; and

4. Such other cooperative agreements as will be necessary to provide quality education for all students residing or attending schools in the school districts. **(70-5-117.1)**

> A board of education of any school district which is contiguous to a school district located in an adjacent state may enter into operative contract with the board of education of out of state school district. *June 27, 1995 (AG Op. No. 95-2)*

Section 71.1. Correctional Facilities May Be Allowed.

The board of education of a school district or a private school may, through a majority vote of the board, allow a correctional facility operated by the Department of Corrections, a county, a municipality, or a private corporation to operate within the areas restricted by Section 563 and 563.1 of Title 57 of the Oklahoma Statutes. **(70-5-117.1a)**

Note: See Sections 1003 and 1004.

> Political subdivision is immune from liability based on implied or noncontractual indemnity. The political subdivision is not immune from contractually incurred indemnity obligations. *The Estate of King v. Wagoner County Board of Commissioners*, 2006 OK CIV APP 118, 146 P.3d 833

A school board may grant permission for a county to build a detached annex to the county jail even though the annex will be located within 1,000 feet of the school district. *March 3, 1999 (AG p. No. 98-47)*

Section 72. State Board of Education - Rules and Regulations.

The State Board of Education is hereby authorized to adopt such rules and regulations as may be necessary to assist any school district located in this state in carrying out the provisions of Sections 5-117.1 and 5-117.3 of this title. **(70-5-117.2)**

Section 73. Average Daily Attendance.

Students who reside within the boundaries of a school district located in this state, but who have attended school in a contiguous school district located in an adjacent state, shall be included in the average daily attendance of the school district located in this state for the purpose of calculation and payment of all state aid and for distribution of all other revenue required by law to be apportioned on an average daily attendance basis.

Under no circumstances shall students who reside outside of the State of Oklahoma be counted as ADM for the purpose of calculation of State Aid in Oklahoma. **(70-5-117.3)**

In calculating average daily attendance, an Oklahoma school district may include those students residing within boundaries of school district who attend school in school district located in adjacent state. *June 27, 1995 (AG Op. No. 95-2)*

Section 74. Adoption of Four-Year Improvement Plan by Board of Education.

A. Each local board of education shall, after convening an advisory council that includes teachers and parents, and after holding at least one public hearing, adopt a six-year school improvement plan for the district. Each school improvement plan shall include stated goals that clearly delineate educational expectations, and shall be annually monitored and updated as necessary. The plan shall also include a specific program of improvement through academic skill reinforcement and/or remediation pursuant to the provisions of the Oklahoma School Testing Program Act. Such plan shall include an evaluation of the instructional program in the basic skills areas as specified in paragraphs 1 and 2 of subsection A of Section 11-103 of this title and specific plans whereby schools within the district will initiate the planning process of meeting or exceeding the accreditation requirements in Section 3-104.4 of this title. The six-year school improvement plan shall include a consideration of the feasibility of participation in any programs which consist of state exemption from educational-related statutes or rules.

B. The school improvement plan shall be submitted to the State Board of Education as provided in Section 3-104.2 of this title. **(70-5-117.4)**

Section 75. Health Insurance Plan Required by School District.

A. The board of education of each school district in this state shall provide a health insurance plan for the employees of the school district. School districts may obtain health and dental insurance coverage as provided for in the State and Education Employees Group Insurance Act or may obtain other health insurance coverage. Any school district that does not participate in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act shall obtain health insurance coverage for the employees which provides open enrollment, and provide for the continuation of health insurance coverage, including supplemental Medicare insurance coverage, for those district employees who retire from said district after September 30, 1991 with a vested benefit in the Teachers' Retirement System of Oklahoma. A retired person who begins receiving benefits from the Teachers' Retirement System of Oklahoma after September 30, 1991, who retires from a school district that provides other health insurance coverage and who elects to continue said health insurance coverage shall pay to the school district the premium rate for the health insurance minus an amount equal to the premium rate of the Medicare supplement or the amount determined pursuant to subsection (4) of Section 1316.3 of Title 74 of the Oklahoma Statutes, whichever is less, which shall be paid by the Teachers' Retirement System of Oklahoma to the school district. The school district shall remit to the health insurance coverage provider the total premium due less any uncollected amounts payable from retired school district employees or their qualified survivors.

B. A school district that participates in health insurance coverage other than the health insurance plan offered by the State and Education Employees Group Insurance Act shall not be required to pay any portion of the premiums for the employees or the dependents of the employees of said school district, except as may otherwise be provided by law. Unless a school district negotiates an agreement with its employees regarding health insurance pursuant to Sections 509.1 through 509.9 of this title, and to the extent that the agreement provides for the members of the recognized bargaining unit, a school district that participates in health insurance coverage other than the health insurance plan offered by the State and Education Employees Group Insurance Act is prohibited from acquiring additional or supplemental health or dental insurance for any board member, school superintendent or any other employee which is not available to all employees of said district, and said school district shall not pay a greater portion of the employee or dependent premium for any health or dental insurance plan or plans provided by said school district on behalf of any board member, school superintendent or employee than that portion paid on behalf of all participating employees of said district.

C. If a school district obtains health insurance coverage from a source other than through the State and Education Employees Group Insurance Act, the employees of the school district who would be eligible to participate in the health and dental plans may require the board of education of the school district to call an election to allow said employees to vote as to whether the school district shall participate in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act. Upon the filing with the board of education of a petition calling for such an election which is signed by no less than thirty percent (30%) of the eligible employees of the school district, the board of education shall call an election for the purpose of determining whether the school district shall participate in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act. The election shall be held within thirty (30) days of the filing of the petition. If a majority of those eligible employees voting at the election vote to participate in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act, the board of education of the school district shall apply for such participation within thirty (30) days of the election.

D. If a school district does not have any health insurance coverage of the type required by this section that school district shall immediately be enrolled in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act.

E. A carrier providing health insurance coverage for employees of a school district health insurance group which replaces a previous carrier for such school district employees shall provide coverage for each retired employee who is receiving a benefit or terminates employment with a vested benefit from the Teachers' Retirement System of Oklahoma and who is enrolled in the health insurance group by the previous carrier at the time the previous carrier providing health insurance coverage is replaced. Notwithstanding any provision in this section to the contrary, any person who retires pursuant to the provisions of the Teachers' Retirement System of Oklahoma prior to May 1, 1993, or terminates service with a vested benefit, pursuant to the provisions of the Teachers' Retirement System of Oklahoma prior to May 1, 1993, may continue to participate in the health and dental plans authorized by the provision of the State and Education Employees Group Insurance Act.

F. In the event a school district ceases to exist, the assets and duties of said school district are transferred to one or more other school districts, said other school district or districts do not agree to employee all of the former employees of the school district that is ceasing to exist, and said former employees who are not being reemployed have rights under federal or state law to continue group insurance coverage, the school district receiving all or a portion of the assets and duties of the annexing school district having the largest general fund revenue for the most recent preceding fiscal year for which data is available shall provide group insurance coverage to said former employees not being retained during the period as required by law.

G. Any member of a district board of education who terminates service on or after July 1, 2002, who has served ten (10) or more years as a district board of education member in this state, and who is participating at the time of termination in a health and/or dental insurance plan offered by the school district, may elect upon termination of such service to continue participation in the health and/or dental insurance plan that the member was participating in at the time of termination. The election provided in this subsection shall be made within thirty (30) days from the date of the school board member's termination of service. The school board member shall pay the full cost of the insurance premium for such after-termination coverage at the rate and pursuant to the terms and conditions of such health and/or dental plan. **(70-5-117.5)**

A school district which does not participate in the state health insurance plan may not pay greater health insurance premiums for the superintendent than the premiums paid for other participating employees, regardless of the language in the superintendent's contract. *August 28, 1995 (AG Op. No. 95-57)*

In determining whether private health insurance policies for school district employees are "comparable" to the state insurance plan, the amount of the premium is a necessary consideration. The proper measure of the premium to be considered in determining whether policies are "comparable" is the amount of premium paid by the employee. *April 13, 1990 (AG Op. No. 90-3)*

Section 75.1. Regulating Dogs on School District Property.

The board of education of any school district which has property that lies outside the boundaries of a municipality may regulate or prohibit dogs from running at large on such property or on public property within five hundred (500) feet of such property, and cause the dogs to be impounded and may authorize the humane killing or disposal of such dogs. The board of education may contract for the control of such dogs. **(70-5-117.6)**

Section 76. Meetings of Board - Executive Sessions Compensation of Members of Boards of Districts with ADA Exceeding 15,000 or Population Exceeding 100,000.

Regular meetings of the board of education of each school district shall be held upon the first Monday of each month, or upon such day as may be fixed by the board. Special meetings may be held from time to time as circumstances may demand.

All meetings of the boards of education shall be public meetings, and in all such meetings the vote of each member must be publicly cast and recorded. Executive sessions will be permitted only for the purpose of discussing the employment, hiring, appointment, promotion, demotion, disciplining, or resignations of any or all of the employees or volunteers of the school district, and for the purpose of discussing negotiations concerning employees and representatives of employee groups, and for the purpose of hearing evidence and discussing the expulsion or suspension of a student or students only when requested by the student involved or his or her parent, attorney, or legal guardian; provided, however, that any vote or action thereon must be taken in a public meeting with the vote of each member publicly cast and recorded. It is required that the board of education shall provide notice to the student, his or her parent, attorney or legal guardian that said student is entitled to an executive session regarding the discussion of expulsion or suspension of said student.

Any action taken in violation of the provisions of this act shall be invalid.

Each member of the board of education of a school district with an average daily attendance exceeding fifteen thousand (15,000) or a school district where boundaries encompass a total population exceeding one hundred thousand (100,000) persons according to the last preceding Federal Decennial Census may be paid from the district's general fund a stipend of Twenty-five Dollars ($25.00) for each regular, special or adjourned meeting of the board of education that he or she attends, but not for more than four meetings in any calendar month. **(70-5-118)**

Note: See Sec. 62 – Excluding Litigious Board Member from Proceedings.

Board of education, and not its president, determines place where board meetings will be held. *AG Op. April 26, 1938*

Section 77. Officers of Board.

A. Except for districts that elect a chair of the board pursuant to Section 1 of this act, the board of education of each school district shall elect from its membership at the first regular, special or emergency meeting following the annual school election and certification of election of new members, a president and vice president, each of whom shall serve for a term of one (1) year and until a successor is elected and qualified. The board shall also elect a clerk and, in its discretion, a deputy clerk, either of whom may be one of the members of the board, and each of whom shall hold office during the pleasure of the board and each of whom shall receive such compensation for services as the board may allow. If the board elects a board clerk who is not one of the members of the board, the board clerk may also be employed as the encumbrance clerk and minute clerk. Provided, no superintendent, principal, treasurer or assistant treasurer, instructor, or teacher employed by such board shall be elected or serve as clerk or deputy clerk of the board nor as encumbrance clerk or minute clerk except that a treasurer or assistant treasurer may serve as a minute clerk. No board member shall serve as encumbrance clerk or minute clerk. The deputy clerk may perform any of the duties and exercise any of the powers of the clerk with the same force and effect as if the same were done or performed by the clerk. Before entering upon the discharge of the duties of the deputy clerk, the deputy clerk shall give a bond in a sum of not less than

One Thousand Dollars ($1,000.00) with good and sufficient sureties to be approved by the board conditioned for the faithful performance of the duties of the deputy clerk.

B. The board of education shall employ an encumbrance clerk and minute clerk, both functions of which may be performed by the same employee. The encumbrance clerk shall keep the books and documents of the school district and perform such other duties as the board of education or its committees may require. The minute clerk shall keep an accurate journal of the proceedings of the board of education and perform such other duties as the board of education or its committees may require. The board of education may designate a deputy minute clerk. The deputy minute clerk may perform any of the duties and exercise any of the powers of the minute clerk with the same force and effect as if the same were done or performed by the minute clerk. Before entering upon the discharge of the duties of the deputy minute clerk, the deputy minute clerk shall give a bond in a sum of not less than One Thousand Dollars ($1,000.00) with good and sufficient sureties to be approved by the board conditioned for the faithful performance of the duties of the deputy minute clerk. Before entering upon the discharge of their duties, the encumbrance clerk and minute clerk shall each give a bond in a sum of not less than One Thousand Dollars ($1,000.00) with good and sufficient sureties to be approved by the board conditioned for the faithful performance of their duties. If both functions are performed by the same person only one bond in a sum of not less than One Thousand Dollars ($1,000.00) shall be required. **(70-5-119)**

The minute clerk is not statutorily required to take the minutes of a board of education's executive session. Any person legally present during an executive session may take the minutes of the executive session. *January 27, 1997 (AG Op. No. 96-100)*

District Superintendent of Schools cannot assume duties of clerk of board of education and keep minutes of board meetings. *April 27, 1983 (AG Op. No. 83-66)*

Clerk of Board of Education may be removed as Clerk by the Board of Education at any time. *AG Op. February 28, 1951*

The president of the board of education of a school district cannot be "fired" by the board of education prior to the expiration of his one-year term. *AG Op. August 23, 1949*

Section 78. President - Duties.

It shall be the duty of the president to preside at meetings of the board of education, to appoint all committees whose appointment is not otherwise provided for, and to sign all warrants ordered by the board of education to be drawn upon the treasurer for school money. **(70-5-120)**

President of board of education may sign warrants by use of machine which prints facsimile of his autograph. *AG Op. August 28, 1954*

Section 79. Vice President - Duties.

It shall be the duty of the vice president to perform all of the duties of the president in case of his absence or disability. **(70-5-121)**

Section 80. Clerk - Duties.

It shall be the duty of the clerk to countersign all warrants for school monies drawn upon the treasurer by the board of education and perform such other duties as required by law or as the board of education or its committees may require.

The Clerk of the board of education of any school district is hereby authorized to destroy all claims, warrants, contracts, purchase orders and any other financial records, or documents including those relating to school activity funds, on file or stored in the offices of the board of education of such district for a period of longer than five (5) years. **(70-5-122)**

Note: 51 O.S. 1981 § 21 authorizes clerk of board of education to administer oaths.

Board of Education can employ secretary to perform bookkeeping and clerical duties, but not to perform statutory duties of the clerk of the board. *AG Op. July 20, 1962*

Clerk of the board of education may countersign warrants by use of machine which prints facsimile of his autograph. *AG Op. August 28, 1954*

While there is no law requiring the Clerk of a Board of Education to read or make public the minutes of prior meetings, he may be required to do so by the Board of Education. *AG Op. December 7, 1949*.

Section 81. Expenditures - Limitations.

No expenditure involving an amount greater than Five Hundred Dollars ($500.00) shall be made by a board of education except in accordance with the provisions of a written contract or purchase order. **(70-5-123)**

District must have written contract with support employee where remuneration for services exceeds $500. *March 3, 1982 (AG Op. No. 82-62)*

District superintendent, who allegedly told materialman orally that he would receive payment for materials delivered on school district project, lacked authority to bind school district by his assurances; moreover, the oral promise or contract was not valid unless it was in writing and signed by the party charged. *Haskell Lemon Const. Co. v. ISD No. 12*, 589 P.2d 677 (Okla. 1979)

Mistake of contractor as to extent of work he contracted to do does not authorize payment of additional amount to contractor. *AG Op. September 1, 1954*

Section 82. Contracts With Member or Business in Which Interested.

A. Except as otherwise provided in this section, no board of education of any school district in this state shall make any contract with any of its members or with any company, individual or business concern in which any of its members shall be directly or indirectly interested. All contracts made in violation of this section shall be wholly void. A member of a board of education shall be considered to be interested in any contract made with any company, individual, or any business concern if the member of the board of education or any member of the immediate family of the member owns any substantial interest in same.

B. For the purposes of this section the following shall not be considered the making of a contract:

1. Any contract with a qualified nonprofit Internal Revenue Code 501(c)(3) organization, except for contracts paying salaries or expenses or except a contract involving the counseling or instruction of students or staff;

2. Monthly billing submitted to any school district for public utility companies, electric cooperatives or telephone companies, whose services are regulated by the Oklahoma Corporation Commission, or billings of the utility companies, electric cooperatives or telephone companies pertaining to installations or changes in service, where tariffs for the charges or billings by the companies are on file with the Oklahoma Corporation Commission; and

3. The depositing of any funds in a bank or other depository.

C. 1. The governing board of a technology center school district may enter into a contract for the technology center school district to provide training for a company, individual or business concern by which a member of the board is employed. A board member shall abstain from voting on any such contract between the technology center school district board and the company, individual or business concern by which the member is employed.

2. A board of education may enter into a contract with a company, individual, or business concern in which a board member or a member's spouse is employed by or has a substantial interest if the company, individual, or business concern is the only supplier having a place of business located within the school district or within ten (10) miles of the needed services or materials. The board member shall abstain from voting on any such contract between the company, individual, or business concern in which that member has a substantial interest, and the minutes of the board meeting at which the contract is approved shall state that the contract is being made because of the lack of another supplier with a place of business located within the school district.

3. A board of education which has entered into a lease-purchase agreement, prior to the time a board member which has a substantial interest in the company, individual, or business concern became a member of the board of education, may, after the member becomes a board member, continue to exercise any fiscal year options in the lease-purchase agreement for renewal of the lease-purchase for the balance of the contract term. The affected board member shall abstain from voting on such fiscal year renewal of the continuation of the lease-purchase agreement.

4. A board of education may enter into a contract with a company, individual or business concern in which a board member or a spouse of a member is employed and has no substantial interest if the school district does not include any part of a municipality with a population greater than two thousand five hundred (2,500) according to the latest Federal Decennial Census and the company, individual or business concern is located in the corporate limits of a municipality which is in the boundaries of the school district.

D. A board member shall not be considered to be directly or indirectly interested in any contract with a company, individual, or business concern that employs such board member or the spouse of the board member if the board member or the spouse of the board member has an interest of five percent (5%) or less in the company, individual, or business concern. **(70-5-124)**

Neither a school board member nor the board member's spouse can have an ownership interest in the Department of Human Services ("DHS"). Therefore, the board member does not have a direct or indirect interest in a cooperative agreement with DHS, and there is no violation of this section of law. *March 30, 2004 (AG Op. No. 04-11).*

Provisions relieving school board members of certain conflicts of interest are not unconstitutional. *April 28, 2003 (AG Op. No. 03-17).*

Prohibitions of 70 O.S. §5-124 and 62 O.S. §371 are not avoided by the abstinence from voting by an affected board of education member. *September 18, 1992 (AG Inf. Op. No. 92-549)*

Member of board of education may also serve as member of a trust where school is the beneficiary without automatically violating the law. *February 7, 1989 (AG Op. No. 88-88)*

Members of public trusts who serve also as board members should avoid repeated contractual dealings where they are voting to approve both sides of the same contract. *February 7, 1989 (AG Op. No. 88-88)*

Spouse of board member cannot sell athletic equipment to District even though spouse waives his commission. *May 18, 1983 (AG Op. No. 83-119)*

Existence of sibling relationship between member of school board and person contracting with board does not on the basis of that fact alone cause contract to be unlawful. *May 18, 1981 (AG Op. No. 81-70)*

Oklahoma law prohibits a board of education for a school district from entering into a contract with a business concern which employs any member of the board or that member's immediate family. Immediate family means members of the same household. However, 70 O.S. §5-124 and 62 O.S. §371 do not cause contracts in existence at the time of an election to become void by the subsequent election of a business' employee to a board of education. *May 18, 1981 (AG Op. No. 81-70)*

Board of Education cannot purchase natural gas from a gas company which president and principal stockholder is a member of the board of education. *July 29, 1980 (AG Op. No. 80-134)*

This section is violated where a board member sells goods to another who in turn sells the goods to the School District. *June 28, 1979 (AG Op. No. 79-183)*

Member of board of education is "indirectly interested" in contract let by board where member has or is likely to have a pecuniary or personal interest in the contract which interest is likely or would tend to interfere with member's objective performance of his public duty. *June 28, 1979 (AG Op. No. 79-183)*

Board cannot make occasional purchases of materials and supplies in open market from firm or company employing one of Board members. *July 13, 1977 (AG Op. No. 77-167)*

Municipality can purchase land from brother of member of municipality's governing board if member has no pecuniary interest in sale of the property. *September 28, 1979* (AG Op. No. 76-267)

District funds may be deposited in bank with which a member of the board of education is associated. *June 28, 1971 (AG Op. 71-224)*

Section 83. Claims - False - Voting for - Liability.

A. Every member of the board of education or board of county commissioners who shall hereafter vote for the payment of any money or transfer of any property belonging to the school district in settlement of any claim known to such member to be fraudulent or void, or in pursuance of any unauthorized, unlawful or fraudulent contract or agreement made or attempted to be made, for any school district, by any officer or officers thereof, and every person having notice of the facts with whom such unauthorized, unlawful or fraudulent contract shall have been made, or to whom, or for whose benefit such money shall thereafter be paid, or such transfer of property shall be made, shall be liable in damage

to all innocent persons in any manner injured thereby and shall be liable to the school district affected for double the amount of all sums of money so paid, and double the value of property so transferred, as a penalty to be recovered by civil suit brought by the board of education of such school district, or by any school district elector thereof, as provided in Section 5-126 of this Title.

B. Any member of a board of education of a school district who votes for the payment of any money or transfers any property belonging to the school district in settlement of any claim known to such member to be fraudulent, void or in pursuance of any unauthorized, unlawful or fraudulent contract or agreement made or attempted to be made for any such district shall be guilty of a misdemeanor. Every person having notice of the facts with whom any unauthorized, unlawful or fraudulent contract shall have been made or to whom or for whose benefit such money or property shall have been or thereafter will be paid shall be guilty of a misdemeanor. Upon conviction of a misdemeanor described in this section, the person shall make full restitution of all monies and/or property misallocated and be punished by a fine of not less than One Thousand Dollars ($1,000.00) or by imprisonment in the county jail for not to exceed one (1) year, or by both such fine and restitution and imprisonment and if such person is a member of a board of education, shall be removed from office pursuant to Section 1181 et seq. of Title 22 of the Oklahoma Statutes or Section 91 et seq. of Title 51 of the Oklahoma Statutes.

C. Such illegal payment of money shall include, but shall not be limited to, salaries or any compensation paid to any person for teaching or performing other services for the district when such person does not have a written contract required by law or does not hold a valid certificate as required by law or by rules and regulations of the State Board of Education for the subjects taught or services performed and which is valid for the entire time for which such person has been paid. Any person receiving an illegal payment knowing or having reasonable cause to believe such payment to be illegal shall be guilty of a misdemeanor and shall be subject to the punishment prescribed in subsection B of this section. **(70-5-125)**

> A private association representing school board members may not expend association funds partially derived from membership dues paid from public funds to support or to oppose an initiative or a referendum if the dues were paid and received with this intent. *May 13,1996 (AG Op. No. 95-14)*
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> State Board of Education can deviate from its own regulations in the exercise of its authority and discretion and issue a superintendent's certificate retroactively. *State ex rel. Pate v. ISD No. 67*, 789 P.2d 251 (Okla. App. 1989)

Section 84. Refusal, Failure or Neglect of Board - Elector May Institute Action.

Upon refusal, failure or neglect of the board of education of any school district, after written demand made upon them by ten school district electors of such school district, or by the State Board of Education, either to return the money or to institute and diligently prosecute the proper proceedings at law or in equity for the recovery of any money or property belonging to such district, paid out or transferred by any officer thereof, in pursuance of any unauthorized, unlawful, fraudulent or void contract, made or attempted to be made by the board of education of any such school district, or for the penalty provided in Section 5-125 of this title, any school district elector of the school district affected by such payment or transfer, may, in the name of the State of Oklahoma as plaintiff, institute and maintain any proper action at law or in equity which the board of education of the school district might institute and maintain, for the recovery of such property or for said penalty, for the benefit of the district, and any judgment thus obtained shall provide for payment of attorney fees and court costs to the prevailing party. **(70-5-126)**

> Electors of school district have power to file an action at law for return of moneys paid out in pursuance of a void contract and have standing to seek a declaratory judgment to determine the contract's validity. *Brandon v. Ashworth*, 1998 OK 20, 955 P.2d 233.

Section 84.1. Discussion of Audit Findings Prior to Release.

Except for audits requested by a prosecutorial agency, the findings of an audit performed on any school district by any state agency, or on behalf of or at the direction of any state agency, shall be discussed with the members of the board of education and the superintendent or a designee of the affected school district at least fourteen (14) days prior to the release of the audit to the public. **(70- 5-127.1)**

Section 85. Annual Statistical and Financial Reports.

Boards of education of all school districts are hereby required to make annual statistical and financial reports to the State Board of Education. The statistical report shall be made as of June 30. Each of such reports shall be filed with the State Board of Education as soon as information is available following the effective date of such reports. **(70-5-128)**

Section 86. Itemized Expenditure Budget and Request for State Appropriated Funds - Estimate of Revenue.

No later than October 1 of each year the board of education of each school district shall file with the State Board of Education an itemized expenditure budget and request for state appropriated funds for the ensuing fiscal year, and an estimate of the revenues from all sources to be received by the district during the ensuing fiscal year. **(70-5-128.1)**

Section 86.1. Electronic Filing.

A. The State Board of Education shall not require school districts to submit a written paper copy of any documents that are filed electronically with the Board in a format that is compatible with the State Department of Education computer system.

Any correspondence between the State Department of Education and a school district concerning an electronically filed report, plan or grant, may also be conducted by electronic transmission. If a signature is required on any electronically filed document, a facsimile signature shall be submitted with the document.

B. Nothing in this section shall prohibit a school district from filing any reports with the State Department of Education in a written paper format. **(70-5-128.2)**

Section 87. School Activity Fund.

A. The board of education of each school district shall exercise control over all funds and revenues on hand or hereafter received or collected, as herein provided, from student or other extracurricular activities or other revenue-generating sources listed in subsection B of this section that are conducted in the school district. Such funds shall be deposited to the credit of the account maintained for the benefit of the particular activity within the school activity fund. Deposits of funds subject to the requirements of this section shall be made by the end of the next business day; however, if the deposit for a day totals less than One Hundred Dollars ($100.00), a school district may accumulate monies required to be deposited into the fund on a daily basis until the total accumulated balance of deposits equals or exceeds One Hundred Dollars ($100.00). Provided, a school district shall deposit accumulated monies into the fund not less than one (1) time per week, regardless of whether the monies total One Hundred Dollars ($100.00). Disbursements from each of the activity accounts shall be by check countersigned by the school activity fund custodian and shall not be used for any purpose other than that for which the account was originally created. The board of education, at the beginning of each fiscal year and as needed during each fiscal year, shall approve all school activity fund subaccounts, all subaccount fund-raising activities and all purposes for which the monies collected in each subaccount can be expended. Provided, the board of education may direct by written resolution that any balance in excess of the amount needed to fulfill the function or purpose for which an account was established may be transferred to another account by the custodian.

B. The board of education of each school district may designate that any of the following revenue be deposited for the use of specific school activity accounts, or to a general activity fund within the school activity fund:

1. Admissions to athletic contests, school or class plays, carnivals, parties, dances and promenades;

2. Sale of student activity tickets;

3. Concession sales, including funds received from vending concession contracts and school picture contracts approved by the district board of education, and cafeteria or luncheon collections;

4. Dues, fees and donations to student clubs or other organizations, provided that membership in such clubs or organizations shall not be mandatory;

5. Income or revenue resulting from the operation of student organizations or club projects, provided, such revenue is not derived from the lease, rental or sale of property, supplies, products or other assets belonging to the school district. When approved by the board of education, student organizations or club projects may include fund-raising activities, the revenues from which may be used for the purpose of purchasing goods or services otherwise considered to be general fund expenditures;

6. Deposits for or collections for the purchase of class pictures, rings, pins, announcements, calling cards, annuals, banquets, student insurance and other such personal items; provided the cost of such items shall not be charged against other school funds; and

7. Other income collected for use by school personnel and other school-related adult functions.

C. The board of education of each district may establish petty cash accounts to be used only for the purpose of making small cash expenditures, such as postage, freight or express charges; provided, no single expenditure from a petty cash account shall be made in excess of Seventy-five Dollars ($75.00), and the total expenditures during any one (1) fiscal year shall not exceed Two Thousand Five Hundred Dollars ($2,500.00) per school building. The school activity fund custodian shall initiate petty cash accounts by filing a claim against the general fund of the school district for the authorized amount of each petty cash account which shall not exceed Two Hundred Dollars ($200.00) per school building. The general fund warrants issued in payment of said claim shall be deposited in a "Petty Cash Account" in the school activity fund.

All disbursements from the petty cash accounts shall be made in the same manner as other disbursements from the school activity fund, except no disbursement shall be made from a petty cash account unless a prenumbered, dated receipt be obtained and signed by the person receiving payment. A school board may designate a petty cash custodian to countersign petty cash checks in place of the activity fund custodian. The school activity fund custodian shall file claims against the general fund of the school district for reimbursement of a petty cash account whenever the need shall arise. Such claims shall be itemized in the same manner as other claims filed against the general fund and shall have attached thereto the receipts covering each of the expenditures claimed for reimbursement. The total of a petty cash account balance and the receipts on hand awaiting reimbursement should equal at all times the authorized amount of a petty cash account.

None of the provisions pertaining to a petty cash account shall be construed to authorize the use of one (1) fiscal year's fund to pay obligations of another fiscal year. Any remaining balance in each petty cash account shall be transferred to the general fund on or before June 30 of each year.

D. The State Board of Education shall adopt appropriate rules and regulations and design standard forms for the proper conduct of the various school activity accounts.

E. The school activity fund custodian and the petty cash custodian shall be appointed by the board of education of the school district. The school activity fund custodian and the petty cash custodian shall give a surety bond in an amount determined by the board of education, but not less than One Thousand Dollars ($1,000.00). The premium of the surety bond shall be paid from the school activity fund or the general fund.

F. The local board of education is hereby authorized to invest activity funds as it determines appropriate. Upon direction of the local board of education, the custodian of the activity fund shall invest activity funds in any or all of the investments permitted and listed in Section 5-115 of this title.

G. The board of education of a school district may establish, by board resolution, a general fund refund subaccount within the school activity fund. The balance in the subaccount shall be determined by need, and it shall be funded by refunds and reimbursements received, including but not limited to, rental income, reimbursements for lost and damaged textbooks, summer school and adult tuition, overpayments and tax refunds, as well as transfers, by treasurer's check, from the school district general fund. The subaccount may be expended only for the refund of revenues previously received and deposited either into the subaccount or directly into the general fund. Any remaining balance in the refund subaccount shall be transferred to the school district general fund on or before June 30 of each year.

H. The board of education of a school district may authorize the custodian of the school activity funds to provide cash advances to the sponsors for travel expenses on behalf of school district students and sponsors of certain school activities. The cash advances may only come from the school activity fund subaccount directly involved in the travel

of such students or sponsor and only if the travel is one of the stated functions or purposes for the establishment of the subaccount. Receipts for all expenditures of the cash advances shall be kept and turned in to the custodian of the school activity fund following said trip.

I. Any invoice submitted to a school district which is to be paid from a school activity fund and is for payment of an authorized expenditure in an amount equal to or greater than the threshold amount stated in Section 310.9 of Title 62 of the Oklahoma Statutes shall conform to the requirements set forth in that section. **(70-5-129)**

> Money received by school districts from vendors pursuant to vending concession contracts and school picture contracts is school district money. Fact that money from these sources is deposited in a school activity fund does not change its character. Public money in a school activity fund may only be disbursed to private persons or organizations for a valid public purpose. The determination of what constitutes a valid public purpose is a matter for the governing body to decide. Absent a showing of fraud or arbitrariness, a finding by a governing body that a project serves a public purpose will not be disturbed by the courts. *May 15, 2003 (AG Op. No. 03-21).*
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> A school district may use its school activity fund account to deposit and disperse monies raised for the purpose of making charitable and/or benevolent gifts or contributions to individuals or organizations if the board of education has approved the fund-raising activity and the dispersement. The monies deposited in the school activity fund which are raised by student fund raising activities are not public funds subject to the constitutional restrictions. *June 12, 1997 (AG Op. No. 97-6)*
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> A school district may not use tax-generated funds to purchase awards for student activities, but may pay expenses for awards for student activities if the board of education has established a student activity fund subaccount for such purpose. *November 28, 1995 (AG Op. No. 95-33)*
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> "Casino nights" where 1) patrons receive chips or paper money to play various casino games, 2) at the conclusion of the games, are issued credits or vouchers for the chips or papermoney won, and 3) are allowed to purchase prizes with the credits or vouchers issued, violate the anti-gambling and anti- lottery laws of Oklahoma. *March 30, 1995 (AG Op. No. 95-6)*
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> Student Activity Fund can be used to defray expense of transporting students to and from student activities, or to reimburse teacher for expenses or otherwise compensate teacher for transporting students. *January 17, 1980 (AG Op. No. 79-338)*

Section 88. Exemption of Certain Funds.

Those funds which are collected by programs for student achievement and by parent-teacher associations and organizations that are sanctioned by the school district board of education shall be exempt from the provisions as outlined in Section 5-129 of this title. Each school district board of education shall adopt policies providing guidelines for the sanctioning of organizations and associations exempted or applying to be exempted pursuant to the provisions of this section. The guidelines may include but not be limited to examinations of financial and performance audits performed on each such organization and association. **(70-5-129.1)**

Section 89. Separate Accounts.

A. In conformance with any other law providing procedures for the deposit of such funds, area school districts shall be authorized to establish separate accounts for deposits received for live work, resale items, student financial aid, tuitions and other fees. Such funds shall be deposited to the credit of the account maintained for that particular purpose. Disbursements from each account shall be by check countersigned by the custodian of the account and shall not be used for any purpose other than that for which the account was originally created.

B. The board of education of the technology center school district, at the beginning of each fiscal year and as needed during each fiscal year, shall approve all accounts created pursuant to this section and all purposes for which the monies collected in each account may be expended. Provided, the board of education may direct by written resolution that any balance in excess of the amount needed to fulfill the function or purpose for which an account was established may be transferred to another account by the custodian. **(70-5-129.2)**

Section 90. School Buildings and Property - Permission to Use for Other Purposes.

A. The board of education of any school district may, under such regulations and conditions as it may prescribe:

1. Open any school building and permit the use of any property belonging to such district for religious, political, literary, community, cultural, scientific, mechanical, agricultural, or parental involvement purposes, and other purposes of general public interest including the provision of public library services pursuant to agreements with governing boards or commissions of public libraries or library systems;

2. Contract to provide transportation equipment as defined in Section 9-104 of this title for any purpose specified in paragraph 1 of this subsection; and

3. Make a reasonable charge to cover the cost of the use of such building, property or transportation equipment.

B. The State Board of Education shall encourage each board of education to inquire into and promote the use of its school buildings and property for the purposes provided in subsection A of this section for such activities both before and after regular school hours. **(70-5-130)**

If Board of Education opens buildings to outside organizations, policy as to who will have access cannot be discriminatory. *Hennessey v. ISD No. 4*, 552 P.2d 1141 (Okla. 1976)

School district property may be rented on occasional basis to religious organization for religious services if fair and reasonable charge is made to cover cost of use of property. *April 8, 1975 (AG Op. No. 75-157*)

Board of education may make reasonable classifications as to use of school facilities by private organizations. *AG Op. March 11, 1975*

Parent-Teacher associations may not be denied use of school facilities if comparable organizations are permitted such use. *AG Op. March 11, 1975*

Churches cannot be permitted to conduct prayer meetings and religious instruction in public school buildings during school day. *AG Op. April 10, 1959*

Board of education not required to permit use of buildings for public gatherings. *AG Op. November 13 , 1953*

Section 91. Educational Courses - Buildings and Equipment.

The board of education of every school district in this state is hereby authorized to provide educational courses for all persons and said board is authorized to provide necessary buildings, equipment, and other facilities for such persons. Such educational courses may include grades one to twelve, inclusive, for persons between the ages of six (6) and twenty-one (21) years and may also include nursery and kindergarten classes, junior college grades, vocational and technical instruction, adult and part-time classes and other special classes. The curricula and qualifications of teachers shall be determined by the State Board of Education except as otherwise provided herein. Provided, any district offering educational courses shall charge tuition fees for such courses unless the school district has funds available to pay the cost thereof which are not needed to maintain the common school program. **(70-5-131)**

Section 92. Sewage Disposal System.

The board of education of any school district, which by reason of its location is unable to secure service from a municipally owned sewer system, is hereby authorized to design, construct, own and operate a sewage disposal system of such type and size as will be best suited to the needs of the particular school district. The board of education of any such school district is also authorized to accept from the State, Federal Government, or any agency, department or instrumentality of either, grants for or in aid of the construction and engineering of any such sewage disposal system. **(70-5-131.1)**

Section 92.1. Energy Conservation Measures.

A. As used in this section, “energy conservation measures” means one or more of the following items:

1. Insulation of the building structure or systems within the building;

2. Storm windows or doors, caulking or weather-stripping, multiglazed windows or doors, heat-absorbing or heat-reflective, glazed, and coated window or door systems, additional glazing, reductions in glass area, or other window and door system modifications that reduce energy consumption;

3. Automatic or computerized energy control systems;

4. Heating, ventilating or air conditioning system modifications or replacements;

5. Replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system, but not for the sole purpose of increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable state or local building codes for the lighting system after the proposed modifications are made;

6. Indoor air quality improvements;

7. Energy recovery systems; and

8. Energy awareness education programs.

B. The board of education of any school district in compliance with the provisions of this section, may enter into an energy conservation contract for the purpose of implementing energy conservation measures designed to reduce the energy consumption of school facilities.

C. 1. The board of education shall require the provider of the energy conservation measures to file with the board of education a performance bond that is in an amount the board finds reasonable and necessary to protect the interests of the board and that covers the value of the guaranteed savings on the contract and is conditioned on the faithful execution of the terms of the contract.

2. If bonding industry limitations prevent execution of a performance bond which covers guaranteed savings for the entire term of the lease-purchase agreement the contract may allow an option for:

a. a performance bond which covers guaranteed savings for a shorter term. At the completion of the bond term, a new bond may be executed which covers guaranteed savings for an additional period of years. This process may be continued in like manner for the duration of the lease-purchase agreement as specified by subsection D of this section, or

b. a performance bond which covers guaranteed savings for a shorter term. At the completion of the bond term, if the bond cannot be renewed as provided in subparagraph a of this paragraph and if there has been a guaranteed savings shortfall during the last twelve (12) months, the board of education may assume a continued annual shortfall of the same amount and request repayment from the contractor of the net present value of the shortfall through the end of the lease repayment period. The discount factor to calculate the net present value shall be the annual percentage rate of the lease-purchase agreement.

D. 1. The board of education may enter into an energy conservation contract for a period of more than one (1) year for the implementation of energy conservation measures with a person or business entity if the board of education finds that the amount the school district would spend on the energy conservation measures, excluding any initial partial payment, will not exceed the total savings over the repayment period of the energy conservation contract from the date of installation.

2. The term of the energy conservation contract and the lease-purchase agreement shall include the installation period and the lease repayment period.

3. If the term of an energy conservation contract exceeds one (1) year, the contractual obligation of the school district, excluding any initial partial payment, in any year during the term of the energy conservation contract may not exceed the total savings including, but not limited to, electrical, gas, or other utility cost savings and savings from lowered maintenance, as determined by the board of education. Savings shall be guaranteed by the entity providing the energy conservation measures.

4. Energy conservation contracts shall not permit the carry-forward of savings above the guaranteed amount from one year to a future year shortfall.

5. Maintenance for energy conservation measures may be a part of the energy conservation contract.

6. The board of education shall consider all costs of the energy conservation measures, including costs of design, engineering, installation, maintenance, maintenance tools and equipment, spare parts, repairs, and debt service.

E. In addition to any other provisions, the energy conservation contract shall:

1. Provide that all savings should be tracked and audited by the contractor with an annual report provided to the board of education along with a payment by the provider for reimbursement of savings not realized;

2. Be for a term of years that is not less than the term of years of any associated lease-purchase agreement;

3. Provide that the board of education may terminate the agreement for nonperformance by the contractor;

4. Contain a nonappropriation clause; and

5. Contain a baseline calculation and an energy savings calculation. The calculations shall be performed in accordance with the procedures used by the International Protocol for Measurement and Verification Procedures (IPMVP) or succeeding standard of the United States Department of Energy.

F. 1. An energy conservation contract, with respect to existing buildings or facilities, may be funded through a lease-purchase agreement that meets federal tax requirements for tax-free municipal leasing or long-term financing.

2. The repayment period of the lease-purchase agreement shall not exceed the lesser of fifteen (15) years or the weighted average equipment life to be installed under the energy conservation contract.

3. Lease-purchase agreements for energy conservation measures shall be considered separate from the energy conservation contract and shall contain a nonappropriation clause.

G. 1. Energy conservation contracts and lease-purchase agreements executed pursuant to this section shall be let under competitive proposal procedures.

2. Notice of the request for proposals shall be published in the manner provided for competitive bidding. Requests for proposals must solicit quotations and must specify the relative importance of guaranteed savings, price, financial performance and stability, quality, technical ability, experience and other evaluation factors.

3. The board of education shall review the proposals it receives, and shall select at least two for more detailed consideration. The initial screening should consider the ability of the offer or to provide energy conservation measures as well as the following factors:

a. specialized experience in the type of work contemplated,

b. capacity to accomplish the work in the required time,

c. past performance, and

d. estimated savings.

4. The board of education shall negotiate the contract with the selected offeror. The negotiated scope and contract rate shall be reported to the board of education for the approval of the award of the contract.

5. a. If the board of education and the first-choice offer or cannot reach an agreement, their negotiations shall be terminated and negotiations with the second-choice offer or shall commence.

b. If the board of education and the second-choice offer or cannot reach an agreement, then all negotiations shall be terminated.

c. Should the board of education be unable to negotiate a satisfactory contract with any of the two selected offerors, the board of education shall select additional offerors in order of their competency and qualifications and shall continue negotiations in accordance with the provisions of this subsection until an agreement is reached.

6. The energy conservation contract and lease-purchase agreement shall be awarded to the responsible offeror whose proposal, following negotiations, is determined to be the most advantageous to the school district considering the guaranteed savings and other evaluation factors set forth in the request for proposals. In order to determine the energy savings measures to be considered by proposers, the board of education may hire an independent energy consultant.

7. Fees assessed by the consultant will be paid from proceeds of any financing associated with the energy conservation contract.

H. If provided in a request for proposals under subsection G of this section, proposals shall be opened in a manner that avoids disclosure of the contents to competing offerors and keeps the proposals confidential during negotiations.

I. All proposals shall be open for public inspection after the contract with the selected provider has been executed, but trade secrets and proprietary information clearly identified in the proposals shall not be open for public inspection. **(70-5-131.2)**

Section 93. Students of Legal Age - Completion of Twelfth Grade.

A. Any person who is of legal age and a resident of Oklahoma, over the age of twenty-one (21) and under the age of twenty-six (26), and who has not completed the twelfth grade in school shall be given the same educational privileges and opportunities provided by law for children over the age of five (5) and under the age of twenty-one (21), upon submitting to the board of education of the school district in which said person resides evidence satisfactory to that board showing that during the time before he was twenty-one (21) years of age he was unable to attend school for a definite period or periods of time because of physical disability, or service in the United States Armed Forces or auxiliary organizations, by reason whereof it was impossible for him to complete the twelfth grade before reaching the age of twenty-one (21). Provided, further, said pupil shall be counted in the average daily attendance of the district where he attends school during the period of time provided for in this article for the purpose of calculating State Aid for the district.

B. Any resident of the state who is nineteen (19) years of age or older, who is not enrolled in any high school program, and who has not completed the twelfth grade may attend any adult high school completion program which is established by a school district and approved by the State Board of Education if such attendance has the approval of the district offering the program. Such attendance shall not be counted in the average daily attendance of the district unless the Legislature appropriates monies for adult high school completion programs. Such attendance shall not be counted to meet minimum numbers for accreditation of the school district involved, and such students shall not attend classes which are a part of the normal class structure of the district. **(70-5-132)**

> Attendance of person before he is 26 years old can be counted in daily attendance only for same number of school days he missed school because of physical disability or military service. *AG Op. August 3, 1962*

Section 94. Completion of Requirements for High School Diploma.

A. Any person other than those persons provided for in Section 5-132 of this title, who is twenty-one (21) years of age or older and who has not completed the requirements for a high school diploma or received a General Education Diploma, upon proper application to an independent school district may be given the opportunity to complete the requirements for and receive a regular high school diploma.

B. The school district or technology center school district in which such person resides may give the person the option of attending regular classes if class size restrictions are not violated, or of participating in other programs which may be provided pursuant to provisions of the Oklahoma Statutes or rules promulgated by the State Board of Education or State Board of Career and Technology Education. Providing, however, that the school district may deny admittance of persons over twenty-one (21) to its classes.

C. The school district or technology center school district may charge such person an amount of tuition not to exceed the average expenditure per pupil of the district for the preceding school year. Said tuition may be prorated by the number of contact hours for which the person is enrolled. **(70-5-132.1)**

Section 95. Apportionment of Taxes Each Year.

A. There is hereby regularly apportioned to each and every school district of the State of Oklahoma in each taxable year five (5) mills on the dollar out of the fifteen (15) mills on the dollar total taxes for all purposes on an ad valorem basis provided by Section 9(a), Article X, of the Oklahoma Constitution, as amended on April 5, 1955. Provided, that the regular apportionment hereby made shall not prevent or take away from the county excise board of any county the right to apportion to any school district or class of school districts in such county more than five (5) mills out of the fifteen (15) mills to be apportioned in pursuance of the provisions of said amended Section 9(a), Article X, of the Oklahoma Constitution among county, city, town and school district.

B. In accordance with the provisions of Section 9(c), Article X, of the Oklahoma Constitution, as amended on April 5, 1955, an additional tax of not to exceed fifteen (15) mills on the dollar valuation of all taxable property in the district shall be levied upon certification of a need therefor by the board of education.

C. An amount equal to the district's proportionate part of the ninety percent (90%) of the amount obtained by multiplying the total net assessed valuation of the school districts of the county by four (4) mills may be estimated as probable revenue from the four (4) mills county-wide levy made under the provisions of Section 9(b), Article X, of the Oklahoma Constitution, as amended on April 5, 1955, and the amount so estimated may be used to finance the appropriations of the district.

The provisions of said Section 9(b) relating to school districts lying in more than one county shall not affect the status of any such school district, and for the purposes of apportionments under said Section 9(b), any such district shall be deemed a school district of the county of which it is now considered a school district, unless the State Board of Education, upon written petition by the board of education of such district, decrees that such district shall be deemed a school district of another county in which any of its territory lies, and unless the District Court of Oklahoma County in an action filed for such purposes reverses such decree, and revenue from the tax levied under said Section 9(b) on the assessed valuation of the district in other counties shall, when collected, be transmitted to the county treasurer of that county of which such district is deemed a school district, and be apportioned as provided for the proceeds of such tax on the assessed valuation of such county. **(70-5-133)**

Legislature may allow school districts more than 5 mills over regular fifteen (15) mills authorized by Section 9, Article X, Oklahoma Constitution. *AG Op. November 2, 1962*

Money received by school district from four (4) mill levy should be appropriated and credited to fiscal year in which received. *AG Op. October 13, 1955*

School district may have a total levy in excess of twenty (20) mills. *St. Louis-San Francisco Ry. Co. v. Craig County Excise Board*, 230 P.2d 896 (Okla. 1951)

Section 96. Estimates - Emergency, Local Support and Building Levies - Elections.

A. No later than December 31 of each year the board of education of each school district of the state shall prepare, on a form prescribed by the State Board of Education, a preliminary estimate of the amount or amounts of money and tax rate or rates which it then believes will be required for the district for the ensuing fiscal year; and if such preliminary estimate shows an estimated need for a levy requiring the approval of the school district electors of the district under Section 9 or Section 10 of Article X of the Oklahoma Constitution, as amended on April 5, 1955, such preliminary estimate shall contain a call for an election to be held on the second Tuesday in February, or on such other date as may be provided for the election of the members of the board of education to vote on the question of making such levy or levies. In determining the eligibility of the school district to make an emergency levy under the provisions of subsection (d) of Section of Article X of the Oklahoma Constitution, as amended, the legal current expenses of the district shall be all the expenditures from the general fund of the district during the preceding year, except (1) expenditures for transportation of pupils; (2) capital outlay; (3) debt service; and (4) the amount appropriated from any previous emergency levy; and the Two Hundred Fifty Dollars ($250.00) per capita cost fixed by said subsection (d) of Section of Article X of the Oklahoma Constitution, for the fiscal year ending June 30, 1956, is hereby increased to One Thousand Dollars ($1,000.00) for the fiscal year ending June 30, 1963, and said sum of One Thousand Dollars ($1,000.00) shall thereafter be increased or decreased by the State Board of Education in proportion to the increase or decrease in the per capita income of Oklahoma citizens. Such preliminary estimate shall be published in one issue of a newspaper having general circulation in the district at least ten (10) days before such election. Provided, that the county excise board or the board of education of any school district may call a special election for any date for the purpose of voting upon a

levy authorized by Section 9 or 10 of Article X of the Oklahoma Constitution, as amended. Notice of any election called under the provisions of this section shall be given by publication in one issue of a newspaper having general circulation in the school district at least ten (10) days before such election.

B. The requirements of this section shall not apply to school districts that have adopted a permanent millage pursuant to subsection (d-2) of Section 9 of Article X of the Oklahoma Constitution. **(70-5-134)**

The statute is unambiguous and authorizes the calling of a special election for the re-submission of a levy election which has failed. *Protest Against Tax Levy of Ardmore Independent School No. 19*, 1998 OK 43, 959 P.2d 580.

Expenditure of public funds to influence outcome of school millage election is unlawful. *February 23, 1981 (AG Op. No. 80-310)*

School district funds cannot be expended for publication of notice of a millage election except as provided by this Section. *July 3, 1980 (AG Op. No. 80-102)*

Section 97. Repealed.

Section 98. Alternate System of Accounting.

A. The board of education of each school district shall use the following system of initiating, recording and paying for all purchases, salaries, wages or contractual obligations due from any of the funds under the control of such board of education. However, a school district board of education may use the procedures outlined in Section 304.1 of Title 62 of the Oklahoma Statutes for the payment of salaries and wages only if the board so votes. The provisions contained herein shall not apply to the sinking fund and school activity fund.

B. The encumbrance clerk and treasurer of the school district shall each enter the authorized amounts in the various appropriation accounts of the funds to which this system is applied. The authorized amounts of appropriations shall be the general fund and building fund appropriations approved by the county excise board and such additional amounts as may be applied in the manner provided by law, the amount received for deposit in a special cash fund where such special cash fund is authorized by law or required by the person or agency providing such funds, or the amount of the net proceeds realized from the sale of bonds of the school district and any other income due such fund.

C. It shall be the duty and responsibility of the board of education of the school district to prescribe and administer adequate business procedures and controls governing the purchase or confirmation of purchase and delivery of goods or services. The procedures shall include delivery of an acceptable invoice by document, facsimile, electronic or other standard form that includes the information required by the district. Such procedures shall include the designation of authorized persons to purchase goods or services for the district and the method of determining the school employee receiving delivery of each purchase.

D. Prior to the issuance of a purchase order, the encumbrance clerk must first determine that the encumbrance will not exceed the balance of the appropriation to be charged. The encumbrance clerk shall charge the appropriate appropriation accounts and credit the affected encumbrances outstanding accounts with the encumbrances. Encumbrances must be submitted to the board of education in the order of their issuance on a monthly basis, subject to a monthly business cycle cut-off date determined by the board of education. Approved encumbrances shall be listed in the minutes by the minute clerk.

E. Before any purchase is completed, a purchase order or encumbrance must be issued. No bill shall be paid unless it is supported by an itemized invoice clearly describing the items purchased, the quantity of each item, its unit price, its total cost and proof of receipt of such goods or services. The bill and/or invoice shall be filed in the encumbrance clerk's official records. If a district has the ability to electronically utilize evaluated receipt settlement (ERS), the district may remit to vendors on that basis if the requirements of this subsection are fulfilled. In the event a district is establishing electronic data interchange, electronic entries will suffice in lieu of paper documents. In order for a district to be authorized to utilize an evaluated receipt settlement system:

1. The ERS must result in payment by the district from vendor receipts that have been matched to the purchase order date;

2. The ERS may only be used when there is an agreement between the district and the vendor for use of an ERS; and

3. The ERS must be included in the district's journal ledger/accounts payable/purchase order software.

F. The encumbrance clerk shall debit the encumbrances outstanding account and credit the accounts payable account for the amount of the approved bill. The board of education shall determine the extent such costs may fluctuate without additional board action. Minor adjustments not requiring additional board approval shall be referenced to the original encumbrance.

G. An approved bill may be paid by issuing a warrant or check against the designated fund only after ascertaining that proper accounting of the purchase has been made and that the files contain the required information to justify the expenditure of public funds, except as otherwise provided in subsection I of this section. The warrants or checks so issued shall be recorded in an orderly numerical system established by the district. The encumbrance clerk shall charge the warrant or checks against the accounts payable account and credit it to the warrants or checks issued account. Provided, if payment is to be made immediately and the board of education deems it advisable, the postings to the accounts payable account may be omitted and the payment of the approved bill may be credited directly to the warrants or checks issued account. The warrant or check shall show on its face the name of the school district, the date of issue, the payee, the amount, the expenditure classification code, and such other information as may be necessary or desirable. The president and clerk of the board of education shall each sign the warrant or check, or approved facsimile thereby denoting to the public that the warrant or check is for the purpose and within the amount of the appropriation charged.

H. The treasurer shall register the warrant or check in the warrant or check register, charging the appropriation account and crediting the warrants or checks outstanding account of the designated fund. Provided, no warrant or check shall be registered in excess of the appropriation account's balance. All warrants or checks shall be registered in the order of their issuance. Voided warrants or checks shall be registered and filed with the treasurer. The treasurer shall sign each warrant or check through individual signature or approved facsimile showing its registration date and if issuing a warrant, shall state whether it is payable or nonpayable. When a warrant or check is paid, the treasurer shall maintain evidence the warrant or check has been processed and paid. Nothing in this subsection shall prohibit any governing board from using automated recordkeeping procedures, provided the information required in this subsection can be accessed.

I. Any board of education of a school district of this state may make a payment which would otherwise be made by warrant or check, by disbursement through an Automated Clearing House, bank account debit system, wire transfer through the Federal Reserve System, or any other automated payment system operated by a financial institution insured by the Federal Deposit Insurance Corporation. The internal controls over such payment system shall be reviewed and approved by the independent auditor of the district during the annual audit. The provisions of Sections 601 through 606 of Title 62 of the Oklahoma Statutes shall apply to instruments or payment authorized by this subsection.

J. School districts complying with the provisions of this act shall use only those forms and accounting systems approved by the State Board of Education. Such forms and systems shall be considered in substantial compliance with this act if they are sufficient to convey the meaning and sequence of transactions contained herein. Provided, nothing contained herein shall be construed to limit or prevent the use of additional or subsidiary accounts, forms, or files which may be deemed necessary or advisable by the board of education of the district or the State Board of Education.

K. Any school district desiring to utilize the services of a data processing center to furnish any or all of the records herein required may do so if the center and its system complies with this act and the rules and regulations of the State Board of Education. Such center shall furnish an honesty bond in an amount to be set by the board of education but not less than Ten Thousand Dollars ($10,000.00).

L. The State Board of Education shall notify the board of education of the school district of the tentative amount the district is to receive from state and federal aid funds or allocations, and the board of education of the school district may include such tentative estimate as an item of probable income in the preparation of the school district's Estimate of Needs and Financial Statement; provided, no such federal aid estimate shall be used in any way to reduce the State Foundation Aid or Incentive Aid for such school district or sustain a protest for the reduction of a tax levy. **(70-5-135)**

Section 99. Oklahoma Cost Accounting System.

A. For the 1991-92 school year, school districts shall report financial transactions for all funds, except for the school activity fund, using the Oklahoma Cost Accounting System, as adopted by the State Board of Education pursuant to Section 5-135 of this title. Costs shall be reported by curricular subject area where applicable. For the 1992-93 school year and in each subsequent school year, school districts shall report financial transactions for all funds using the Oklahoma Cost Accounting System. Costs shall be reported by curricular subject area where applicable.

B. Beginning July 1, 1991, and in each subsequent school year, the State Department of Education shall reduce the monthly payment of a district's State Aid funds if, at the time of such payment, the district is not operating pursuant to the Oklahoma Cost Accounting System. The amount of the reduction shall be one percent (1%) for the first payment, two percent (2%) for the second payment, three percent (3%) for the third payment, four percent (4%) for the fourth payment, and five percent (5%) for each subsequent payment. The reduction may be waived by the State Board of Education if the district can demonstrate that failure to operate pursuant to such system was due to circumstances beyond the control of the district and that every effort is being made by the district to operate pursuant to such system as quickly as possible.

C. No later than September 1 each year, every district board of education shall prepare a statement of actual income and expenditures of the district for the fiscal year that ended on the preceding June 30. The statement of expenditures shall include functional categories as defined in rules adopted by the State Board of Education to implement the Oklahoma Cost Accounting System pursuant to Section 5-135 of this title.

D. No later than September 1 each year, every school district shall transmit a copy of the income and expenditures data required pursuant to subsection C of this section to the State Department of Education. The Department shall post the income and expenditure data on the Internet web site for the Department in a form that is accessible to the public. **(70-5-135.2)**

Section 99.1. Notarized Statement of Architect.

The following signed and notarized statement shall be required on an invoice submitted to any school district or technology center school district in the state, for payment to an architect, contractor, engineer or supplier of material of Two Thousand Dollars ($2,000.00) or more:

STATE OF OKLAHOMA)
) ss
COUNTY OF _____)

The undersigned (architect, contractor, supplier or engineer), of lawful age, being first duly sworn, on oath says that this invoice or claim is true and correct. Affiant further states that the (work, services or materials) as shown by this invoice or claim have been (completed or supplied) in accordance with the plans, specifications, orders or requests furnished the affiant. Affiant further states that (s)he, has made no payment directly or indirectly to any elected official, officer or employee of the school district or technology center school district, of money or any other thing of value to obtain payments of the invoice or procure the contract or purchase order pursuant to which an invoice is submitted.

_____
(Contractor, supplier, engineer or architect)

Subscribed and sworn to before me this _____ day of _____, 19_____.

_____
Notary Public (or Officer having Power to Administer Oaths)

(70-5-135.3)

Note: See also Section 634.

Section 99.2. School District Transparency Act.

A. This section shall be known and may be cited as the "School District Transparency Act".

B. By January 30, 2011, the State Department of Education shall make school district expenditure data available on its website. Data shall be made available in an open-structured data format that may be downloaded by the public and that allows the user to systematically sort, search, and access all data without any fee or charge for access.

C. The database shall provide information on school district expenditures of state, federal, and local funds, whether appropriated or nonappropriated, excluding payments of voluntary payroll deductions for employees to receiving parties. The database shall further provide information, including, but not limited to, the following:

1. Identification of the school district;

2. The Oklahoma Cost Accounting System (OCAS) code designation for each expenditure;

3. The name and principal location of the entity or recipient of the funds, excluding release of information relating to an individual's place of residence and release of information prohibited by subsection D of Section 24A.7 of Title 51 of the Oklahoma Statutes or by federal law relating to privacy rights;

4. The amount of funds expended;

5. The type of transaction;

6. A descriptive purpose of the funding action or expenditure;

7. Copies of all credit card statements, identified by department responsible for each credit card;

8. The budgeted and audited actual expenditure figures for each fiscal year, ensuring each set of figures can be identified as budgeted or audited figures; and

9. The per-pupil spending figure, derived by dividing total expenditures by the total number of students enrolled for each school year.

D. The Department shall make the data available on its website within one hundred twenty (120) days of transmission of the expenditures to the Department by the school district.

E. School districts shall provide information requested by the Department to accomplish the purposes of this section.

F. If a school district maintains a website, the district shall provide the information required in subsection C of this section in the manner prescribed in subsection B of this section on the district website.

G. Nothing in this section shall require the disclosure of information which is required to be kept confidential by state or federal law.

H. The disclosure of information required by this section shall create no liability whatsoever, civil or criminal, to the State of Oklahoma, the State Department of Education, school districts, or any employee thereof for disclosure of required information or for any error or omission in the disclosure. **(70-5-135.4)**

Section 100. Certificate of Indebtedness.

A. With respect to school districts seeking cash-flow management during any fiscal year, any school district may issue and deliver certificates of indebtedness bearing a stated maturity date for the purpose of participating in a short-term cash management program pursuant to the provisions of Section 177.2 of Title 60 of the Oklahoma Statutes to fund the estimated costs of operations, capital expenditures or other lawful costs of the school district for the current fiscal year. The proceeds of certificates of indebtedness shall be set aside in a separate account and used only for the purpose of meeting expenditures and obligations which would otherwise be lawfully payable from the revenue certified by the

County Excise Board. As proceeds from the certificates are used to pay such lawful expenditures and obligations, the financial records of the school district shall reflect the amounts of these obligations paid with such proceeds so that a like amount of revenue collected and available to the school district may be used to repay the certificates of indebtedness, in whole or in part. The State Auditor and Inspector shall adopt uniform accounting procedures for use by the school districts to ensure that the issuance of certificates of indebtedness and the use of the proceeds derived from these certificates will be documented and will not result in a district overspending its authorized budget. All certificates of indebtedness executed pursuant to a cash management program shall be issued, delivered and registered for payment in the specific manner designated by the State Auditor and Inspector; provided, any such certificates of indebtedness shall be made payable on any date within the then current fiscal year and may be purchased for value through the funding of uncollateralized investments made for the benefit of and on behalf of the school district. Short-term cash management programs of any school district may lawfully provide for the investment of note or bond proceeds by the issuer of the obligations with the benefit and use of such proceeds assured to the school district when needed by the school district for that fiscal year and as approved by the Oklahoma Commission on School and County Funds Management. In no case may a school district participate in a short-term cash management program in any given fiscal year beyond that fiscal year. Monies received by a school district pursuant to a short-term cash management program may be used only for those purposes for which other monies of the school district may be lawfully expended.

B. For school districts electing to participate in the payment security procedure set forth in this subsection, which procedure shall serve as additional security for the payment of any bond or note of a participating school district, the State Board of Education shall cure any delinquencies in payment by withholding State Aid due the participating district as determined pursuant to Section 18-200.1 of this title. Whenever the designated paying agent for receipt of payments for the school district does not receive a payment when due pursuant to the authorizing documents, the paying agent shall be entitled to payment from the withheld State Aid in any amount sufficient to cure the payment deficiency. The paying agent shall notify the State Department of Education and the superintendent of the school district of the delinquent payment by telephone, facsimile, or other similar communication, followed by written verification. Unless the Department determines that payment has been made by the school district and there is no longer a payment deficiency, the Department shall withhold from the next distribution of State Aid for the school district an amount sufficient to cure the deficiency and remit the amount to the paying agent. In the event that the amount of State Aid next due to be distributed to the delinquent school district is not sufficient to cure the delinquency, the Department shall continue to withhold State Aid as due and remit it to the paying agent until the payment deficiency has been cured. **(70-5-136.1)**

> 70 O.S., §5-136.1 does not authorize school districts to issue certificates of indebtedness for the purpose of generating additional investment revenue. If proceeds are intentionally used to acquire higher yielding investments, the certificates of indebtedness may be stripped of their tax-exempt status. Certificates of indebtedness must be issued, registered and delivered in a "method" similar to that set forth for school district warrants. *May 1, 1991 (AG Op. No. 91-3)*

Section 101. Registered Nurses - Increments.

Registered nurses who are employed full time by a school district shall qualify for yearly increments the same as any other teacher in public schools. **(70-5-137)**

Section 102. School District Employees - Residence.

No school district board of education shall require any employee to reside within the boundaries of that school district; however, a district board may establish a policy that may require the district superintendent to reside within the boundaries of the district. **(70-5-138)**

Section 103. Payroll Deductions for Organization Dues and Political Contributions.

School districts shall make payroll deductions for either or both professional organization dues and political contributions upon the request of any school employee and shall transmit deducted funds to the organization designated by the school district employee. Such deductions shall be on a ten-month basis unless otherwise designated by the employee organization. However, a school employee may request in writing at any time for the school district to immediately terminate or initiate payroll deductions to a professional organization. Upon receipt of a request the school district shall within five (5) business days or by the next pay period, whichever is earlier, terminate or initiate any future payroll deductions of the requesting school employee to a professional organization. Upon receipt of a request the school district shall notify the professional organization of the initiation or termination of payroll deductions within fifteen (15)

business days. If the request is to terminate a deduction, the school district shall not make any advance payments to any professional organization of any future dues on behalf of the school employee. **(70-5-139)**

> Dues to organization must be deducted from payroll upon request of employee, whether professional or non-professional. *April 8, 1980 (AG Op. No. 80-60)*
>
> Professional organization dues of superintendent and principals cannot be paid from school district funds. *March 20, 1979 (AG Op. No. 79-38)*
>
> Principals cannot be required to belong to any particular professional organization. *March 20, 1979 (AG Op. No. 79-38)*
>
> A school district may not pay out of its own funds the professional dues of administrators but are required to make payroll deductions on behalf of those administrators who request such deductions for the purpose of paying professional organization dues. A school district may not require an administrator to belong to any professional organization. *March 20, 1979 (AG Op. No. 79-38)*

Section 104. Payment of Additional Salary in Lieu of Employee Insurance.

A local school district, by action of a majority of its school board, may, in lieu of a particular insurance or similar benefit granted by the district to its employees, allow and pay to the employee additional salary or wages equal to the cost of such insurance or similar benefit. **(70-5-140)**

> Independent school district may offer employees a "cafeteria plan" and select provider subject to statutory limitations procedures. Fees to offset the cost of administering such a plan may be collected from the companies providing the benefits on collective bargaining and purchasing. *July 24, 1989 (AG Op. No. 88-43)*

Section 105. Minimum Salary Schedules.

A. Each school district of this state shall adopt a minimum salary schedule and shall transmit a copy of it to the State Board of Education within thirty (30) days after adoption. A school district shall not calculate salaries of teachers solely as a proportion of the salaries of the administrators of the district.

B. Districts shall be encouraged to provide compensation schedules to reflect district policies and circumstances, including differential pay for different subject areas and special incentives for teachers in districts with specific geographical attributes. Districts may also adopt a salary schedule that provides additional compensation for achieving certain ratings under the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) as set forth in Section 6 of this act. Any salary schedule adopted by a district pursuant to this section shall not set salaries at amounts less than those set pursuant to Section 18-114.12 of this title.

C. The State Department of Education shall compile a report of the minimum salary schedules for every school district in the state and shall submit the report to the Governor, Speaker of the House of Representatives, and President Pro Tempore of the Senate no later than December 15 of each year.

D. Each school district shall file within fifteen (15) days of signing the contract, the employment contract of the superintendent of the school district with the State Department of Education. The Department shall keep all contracts available for inspection by the public. The school district shall not be authorized to pay any salary, benefits or other compensation to a superintendent which are not specified in the contract on file and shall not pay administrators any amounts for accumulated sick leave that are not calculated on the same formula used for determining payment for accumulated sick leave benefits for other full-time employees of that school district and shall not pay administrators any amounts for accumulated vacation leave benefits that are not calculated on the same formula used for determining payment for accumulated vacation leave benefits for other twelve-month full-time employees of that school district.

E. By October 1 of each year each district board of education shall prepare a schedule of salaries and fringe benefits paid administrators employed by the district, including a description of the fringe benefits. The schedule shall be a public record and shall be disclosed as required by the Oklahoma Open Records Act board shall file a copy of the schedule with the State Department of Education within one week of completion.

F. For purposes of this section the term "administrator" shall include employees who are employed and certified as superintendents, assistant superintendents, principals, and assistant principals and who have responsibilities for supervising classroom teachers. **(70-5-141)**

> In the absence of a uniform formula, any provision in a superintendent's contract which provides for the payment of accumulated and unused sick leave upon retirement is contrary to law and therefore void. *Adams v. ISD No. 43 of Okmulgee County*, 1998 OK CIV APP 104, 964 P.2d 237.
>
> A school district may only pay for disability insurance for a superintendent if such a benefit is specified in the employment contract. *August 28, 1995 (AG Op. No. 95-57)*

Section 106. Incentive Pay Plans.

A. In addition to incentive pay plans authorized pursuant to Section 4 of this act, the State Board of Education shall develop not fewer than five different model incentive pay plans and shall distribute information about each plan to every school district board of education. No plan developed by the Board or implemented by a school district board of education shall permit payment in any one (1) year of incentives to any one teacher amounting to more than fifty percent (50%) of the regular salary of the teacher, exclusive of fringe benefits or extra duty pay. Any incentive pay award shall be an annual award and shall not be a part of a continuing contract of a teacher. Any incentive pay awards received shall be excluded from the compensation of a teacher for purposes of calculating retirement pursuant to the Teachers' Retirement System of Oklahoma and shall not be subject to taxes levied by the Federal Insurance Contributions Act (F.I.C.A.), to the extent an exemption is provided by federal law.

B. A school district board of education may adopt an academically based, district incentive pay plan for the classroom teachers in the district. The district may adopt any incentive pay plan consistent with the requirements of this section, which may include any incentive pay plan developed by the State Board of Education pursuant to this section. The school district board of education shall appoint an advisory committee consisting of teachers, parents, business persons or farmers and other local citizens to advise the board in formulating an incentive pay plan. Prior to the adoption of a plan, the board of education shall place the plan on the school board agenda for public comment and shall submit the plan to the State Board of Education for final approval on or before March 1 prior to implementation of the plan during the succeeding school year. The board of education shall comply with the provisions of this subsection for any year a plan is to be modified.

C. A school district shall be required to adopt and implement an academically based, district incentive pay plan for any school year following the receipt by the school district board of education, of a petition signed by twenty percent (20%) of the classroom teachers employed in the district which calls for the adoption of an incentive pay plan for the district.

D. Student test scores shall not be the sole criterion for allocation of incentive pay under any plan developed or approved by the Board.

E. For the purposes of this section only, "classroom teacher" shall mean any employee who holds certification and assignment outside the classification of administrator.

F. The State Board of Education shall promulgate rules necessary for the effective implementation and administration of this section.

G. Each school district board of education shall provide for a local evaluation committee which shall advise the board on which teachers are to receive incentive pay awards and the amount of each incentive pay award according to the plan.

H. Nothing herein shall preclude a school district from supplementing any monies appropriated to the district for the purposes of funding the incentive pay plan of the district with monies from the general fund for the district. **(70-5-141.2)**

Section 107. Incentive Pay Plans - Reimbursement.

Teacher Incentive Pay programs that have been approved by the State Board of Education prior to implementation and have been evaluated by the State Board of Education to have successfully completed the year according to the approved district plan shall be eligible for partial reimbursement of incentive pay awards from the funds appropriated for Teacher Incentive Pilot Programs. Such state reimbursements shall not exceed fifty percent (50%) of the amount awarded to any teacher not to exceed Five Hundred Dollars ($500.00), whichever is less. Such reimbursements shall not be provided to more than fifty percent ((50%) of the certified instructional staff of a school district. Application for reimbursement shall be submitted to the State Board of Education no later than July 1 of the year following the implementation year and reimbursement of approved claims shall occur no later than September 1. **(70-5-141.3)**

Section 107.1. Evaluation-Based Incentive Pay.

A. 1. In addition to incentive pay plans authorized pursuant to Section 5-141.2 of Title 70 of the Oklahoma Statutes, beginning with the 2012-13 school year, a school district may implement an incentive pay plan that rewards teachers who are increasing student and school growth in achievement.

2. Teacher performance shall be measured using the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) as set forth in Section 6 of this act.

3. Individual teacher incentive pay awards shall be based upon:

a. achieving either a “superior” or “highly effective” rating under the TLE, and

b. grade level, subject area, or school level performance success.

B. 1. Beginning with the 2012-13 school year, a school district may implement an incentive pay plan as authorized pursuant to this section.

2. For purposes of this section, “leader” means a principal, assistant principal or any other school administrator who is responsible for supervising classroom teachers.

3. School leader effectiveness shall be measured using the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) as set forth in Section 6 of this act.

4. Individual school leader incentive pay awards shall be based upon:

a. achieving either a “superior” or “highly effective” rating under the TLE, and

b. grade level, subject area, or school level performance success.

C. Incentive pay plans implemented pursuant to subsections A and B of this section shall be developed through a collaborative planning process involving stakeholders, including teachers and school leaders.

D. In addition to individual teacher and leader incentive pay plans, as authorized pursuant to this section, districts may develop and implement incentive pay systems for:

1. Teaching in critical shortage subject areas including, but not limited to, foreign language;

2. Teachers and leaders who work in low-performing schools as determined by the State Board of Education;

3. Teaching in the subject areas of Science, Technology, Engineering, and Math (STEM); or

4. Teachers and leaders who work in schools or school districts designated by the State Board of Education as hard-to-staff.

E. 1. Prior to implementation of any incentive pay plan developed pursuant to this section, the school district board of education shall place the plan on the agenda for public comment at a meeting of the district board of education.

2. After approval of the incentive pay plan, the school district board of education shall submit the plan to the State Board of Education for final approval. Within sixty (60) days of receipt of the plan, the State Board shall review and approve or reject the plan. If it is determined that the plan meets the requirements of this section, the State Board shall approve the plan. If the plan does not meet the requirements of this section, the State Board shall reject the plan and provide written notification to the school district board of education along with the grounds for rejection.

3. The district board of education shall comply with the provisions of this subsection for any year a plan is to be modified.

F. Any incentive pay award shall be an annual award and shall not be a part of a continuing contract for an employee. Any incentive pay award to any teacher or leader shall not exceed more than fifty percent (50%) of the regular salary of the teacher or leader, exclusive of fringe benefits or extra duty pay. Any incentive pay awards received shall be excluded from compensation for purposes of calculating retirement pursuant to the Teachers' Retirement System of Oklahoma and shall not be subject to taxes levied by the Federal Insurance Contributions Act (F.I.C.A.), to the extent such exemption is provided by federal law. **(70-5-141.4)**

Section 108. Information Concerning Felony Offense Conviction of School Employee or Prospective School Employee (30,000 or less ADM).

A. Except as otherwise provided for in subsection F of this section, for purposes of employment, a board of education may request in writing to the State Board of Education that a national criminal history record check be conducted of any employee of the school and shall request such information for any person seeking employment with the school. The Oklahoma State Bureau of Investigation (OSBI) shall obtain fingerprints of the employee or prospective employee and require that the person pay a search fee not to exceed Fifty Dollars ($50.00) or the cost of the search, whichever is the lesser amount. The fees shall be deposited in the OSBI Revolving Fund. School districts may reimburse employees for the cost of the search. The State Board of Education shall contact the Oklahoma State Bureau of Investigation for any national criminal history record of the person within fourteen (14) working days of receiving a written request from the board of education.

B. The Oklahoma State Bureau of Investigation shall provide the national criminal history record check requested by the State Board of Education within fourteen (14) working days from the receipt of the request. The Bureau may contact the Federal Bureau of Investigation to obtain the information requested.

C. The State Board of Education shall provide the information received from the Oklahoma State Bureau of Investigation to the board of education within fourteen (14) days from the receipt of the information. The State Board of Education shall provide any follow-up information received from the OSBI concerning a person for which a national criminal history record check was requested to the employing board of education.

D. For the purpose of this section:

1. “Board of education” includes both public and private boards of education within or outside this state;

2. “National criminal history record check” means a national criminal history record check as defined in Section 150.9 of Title 74 of the Oklahoma Statutes; and

3. “Prospective employee” means an individual who has received an offer of temporary employment by a school district pending the results of the national criminal history record check.

E. Each public board of education within this state shall promulgate a statement regarding the felony record search policy for that school district. The policy may permit temporary employment of prospective employees for a maximum of sixty (60) days pending receipt of results of national criminal history record check requests. The temporary employment of the prospective employee shall terminate after sixty (60) days unless the school district receives the results of the national criminal history record check. The sixty-day temporary employment period shall begin on the first day the prospective employee reports for duty at the employing school district. Prospective employees shall be notified of the requirement, the fee and the reimbursement policy when first interviewed concerning employment. The school district's reimbursement

policy shall provide, at the minimum, that employees shall be promptly reimbursed in full for the fee if employed by the district at the time the national criminal history record check request is made unless the person was employed pending receipt of results as set forth above.

F. For any person applying for employment as a substitute teacher, a national criminal history record check shall be required for the school year; provided however, a board of education may choose whether to require a national criminal history record check from a prospective substitute teacher who has been employed by the school district in the last year. Any person applying for employment as a substitute teacher in more than one school district shall only be required to have one national criminal history record check, and, upon the request of the substitute teacher, that record check shall be sent to all other school districts in which the substitute teacher is applying to teach. Any person employed as a full-time teacher by a school district in this state in the five (5) years immediately preceding an application for employment as a substitute teacher may not be required to have a national criminal history record check, if the teacher produces a copy of a national criminal history record check completed within the preceding five (5) years and a letter from the school district in which the teacher was last employed stating the teacher left in good standing.

G. The provisions of this section shall not apply to technology center employees hired on a part-time or temporary basis for the instruction of adult students only.

H. Nothing in this section shall be construed to impose liability on school districts, except in negligence, for employing prospective employees within the sixty-day temporary employment window pending the results of the national criminal history record check. **(70-5-142)**

Note: Amended by SB 252, Sec. 1, HB 1418, Sec. 1 & SB 59, Sec. 1 of the 2011 Reg. Sess., effective July 1, 2011 & SB 12, Sec. 1.

Section 109. Repealed.

Section 110. Notification of Arrest for Felony.

A. If in the course of an investigation it is discovered that a person charged in an information or indictment with a felony or violent misdemeanor is a student or employee of a school district or a public school in the state, or an employee working on school property for an entity that provides services to a school district or a public school on school property, with due regard for the provisions of subsection C of Section 2-6-102 of Title 10A of the Oklahoma Statutes, the district attorney shall notify the superintendent of the district of the charges filed against the student or employee.

B. The school district may take any action it deems necessary that is in compliance with the requirements of the Family Educational Rights and Privacy Act of 1974 with regard to such information. **(70-5-144)**

Section 111. Local Foundations - Definitions - Beneficiaries. Membership - Records.

A. District school boards of education should be encouraged to explore the potential benefits of local foundations and public school/business partnerships as supplements to basic programs publicly funded.

B. No local foundation, as defined in subsection C of this section, shall make, and no public school, public school personnel, or school district shall accept, any gift, grant or donation of real or personal property from any local foundation unless the local foundation complies with the requirements of this section and with such other requirements for such organization as are required by Title 18 of the Oklahoma Statutes.

C. As used in this section, “local foundation” means any company, trust, corporation or association:

1. that solicits money or property in the name of any public school district, public school or public school organization; and

2. which is exempt from federal income taxes or is verifiably and in good faith in the process of obtaining federal tax exemption status pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code. If the local foundation is in the process of obtaining exemption status in accordance with this paragraph, the local foundation may

make gifts, grants or donations pursuant to this section provided it has advised the district board of education of the status of any application for tax exemption and continues to provide the board such information each year thereafter.

Any local foundation which has been denied such exemption or ceases to qualify for such exemption by the Internal Revenue Service shall not be authorized to function pursuant to this section.

D. Student organizations or club projects whose revenue may be deposited in a school activity fund or account pursuant to Section 5-129 of this title shall not be considered "local foundations".

E. Only school districts, public schools, school personnel and students or direct functions of a school district may be the beneficiaries of any awards, grants or other benefits of a local foundation.

F. The board of education of any school district in this state may refuse to accept any donation of real or personal property offered by or through a local foundation and shall have the final authority to accept or refuse to accept any grant or award offered by a local foundation for the benefit of the school district.

G. In order to assure the fairness, objectivity, and integrity of its operations, and that its purposes and policies are consistent with the goals of the State Board of Education, the board of education of the school district may consider the process used in selecting recipients of benefits or merit awards by any local foundation in deciding whether to accept or reject the gift, grant or donation.

H. No employee of the district shall be a voting member of a local foundation board which is established in that school district. Members of the board of education may serve on the board of a local foundation, but shall not constitute a majority of the members of the board of directors of the foundation. No other elected official of state or local government shall be compensated by the local foundation. The total number of ex officio local foundation members shall be less than the number of voting members of the local foundations. No ex officio member of the local foundation board or employee of the school district shall be compensated by the local foundation for service as an ex officio member of the local foundation.

I. Any local foundation which makes a gift, grant or donation to any school district, public school, or school personnel of this state, regardless of when established, shall make all of its financial records and documents available to auditors who are performing audits of the school district. Such financial records and documents, other than the list of contributors, shall be open for public inspection upon written request by any person.

J. A public school district shall not directly or indirectly transfer any funds to any local foundation or render services or provide any thing of value to any local foundation without receiving documented adequate payment or reimbursement therefor according to written contract. Nothing herein shall be construed as prohibiting payment by the district of claims for expenses of fund-raising for the benefit of the district if such fund-raising activities are approved in advance by the district board of education and made a part of the minutes of the meeting of the board. Nothing herein shall be construed as prohibiting the district from providing space in a school district building or on school district property to the foundation for office or business purposes in exchange for the financial benefits provided to the district by the foundation if approved by the district board of education and made a part of the minutes of the meeting of the board. **(70-5-145)**

> A school board does not have either the express or implied power to appropriate public funds in support of a local school foundation. To construe the statutes as allowing a board such power would violate the Constitutional provision prohibiting the Legislature from authorizing a school district to appropriate money or loan its credit to any corporation, association, or individual. *May 20, 1998 (AG Op. No. 98-7).*
>
> A school district may conduct a joint fund raiser with a non-profit organization that qualifies as a "local foundation." *April 28, 1992 (AG Inf. Op. No. 91-514)*

Section 111.01. Assault and Battery on School Employee.

A. Any school employee, as defined by subsection A of Section 650.7 of Title 21 of the Oklahoma Statutes, upon whom an assault, battery, assault and battery, or aggravated battery or aggravated assault and battery is committed while in the performance of any duties as a school employee shall notify either the superintendent, building administrator, or one member of a Safe School Committee of the school district employing the school employee. The building

administrator or member of the Safe School Committee shall notify the superintendent of the assault, battery, assault and battery, aggravated battery or aggravated assault and battery.

B. The superintendent shall notify the State Department of Education of all incidents described in subsection A of this section for the previous year on July 1 of each year. The report shall include a description of the battery or assault and battery, and the final disposition of each incident.

C. The State Department of Education shall submit a report to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Governor on December 1 of each year.

D. For purposes of this section, "assault" shall be defined by Section 641 of Title 21 of the Oklahoma Statutes, "battery" shall be defined by Section 642 of Title 21 of the Oklahoma Statutes, and "aggravated assault and battery" shall be defined by Section 646 of Title 21 of the Oklahoma Statutes.

E. No school employee shall be subject to any civil liability for any statement, report, or action taken in reporting or assisting in reporting a battery or assault and battery which is committed upon the school employee while in the performance of any duties unless such report or assistance was made in bad faith or with malicious purpose.

F. Every school district shall have and deliver to each school employee a written policy that such employee shall follow if an assault, battery or assault and battery is committed upon the school employee while in the performance of any school duties. **(70-5-146)**

Note: See also Sec. 1041.1.

Section 111.01.A. Reporting Suspected Gang Activity.

A. Any school employee, as defined by subsection A of Section 650.7 of Title 21 of the Oklahoma Statutes, who has reason to believe that a child under the age of eighteen (18) years is involved in gang activity shall notify the person designated by the school district. Upon receiving such report, the person designated by the school district may report the matter to the nearest local law enforcement agency. The report may be made by telephone, in writing, personally or by any other method prescribed by the school district.

B. A school district employee or contractor who, in good faith and exercising due care in the making of a report pursuant to subsection A of this section, shall be granted immunity from all civil or criminal liability which might be incurred or imposed by making such report. **(70-5-146.1)**

Note: Enacted by SB 923, Sec. 3 of the 2011 Reg. Sess. Effective November 1, 2011.

Section 111.02. Foods of Minimal Nutritional Value.

A. Each district board of education shall ensure that students in elementary schools do not have access to foods of minimal nutritional value except on special occasions.

B. Each district board of education shall ensure that students in middle and junior high schools do not have access to foods of minimal nutritional value except after school, at events which take place in the evening, and on special occasions. The only exception to the minimal nutritional value standard will be diet soda with less than ten (10) calories per bottle or can.

C. Each district board of education shall ensure that students in high schools are provided healthy food options in addition to any foods of minimal nutritional value to which they may have access at school. Each district shall provide incentives, such as lower prices or other incentives, to encourage healthy food choices for high school students.

D. For purposes of this section, "foods of minimal nutritional value" means any foods so defined in 7 CFR 210.11 and listed in Appendix B of the regulations for the National School Lunch Program.

E. The State Board of Education shall adopt rules to implement the provisions of this section. **(70-5-147)**

Section 111.03. Lockdown Drills.

Each district board of education shall ensure that a minimum of two lockdown drills are conducted at each public school within the district each school year. No lockdown drill shall be conducted at the same time of day as a previous lockdown drill conducted in the same school year, and no more than two lockdown drills shall be conducted in one semester. Additional drills may be conducted at the discretion of the district. Lockdown drills shall be conducted for the purpose of securing school buildings to prevent or mitigate injuries or deaths that may result from a threat on or near the school. The drills shall conform to the written plans and procedures adopted by the district as required by Section 681 of Title 63 of the Oklahoma Statutes. All students and employees shall participate in the drills, with the extent of student involvement to be determined by the district.

The State Board of Education shall adopt rules to implement the provisions of this section. **(70-5-148)**

Section 111.1. School District Budget Act.

This act shall be known and may be cited as the "School District Budget Act". **(70-5-150)**

Section 111.2. Purpose of School District Budget Act.

The purpose of the School District Budget Act is to provide an alternate budget procedure for school districts which will:

1. Establish standard and sound fiscal procedures for the adoption and administration of budgets;

2. Make available to the public and investors sufficient information as to the financial conditions, requirements and expectations of the school district; and

3. Assist school districts to improve and implement generally accepted standards of financial management as promulgated by the Governmental Accounting Standards Board (GASB). **(70-5-151)**

Section 111.3. Applicability of School District Budget Act.

The School District Budget Act shall be optional and shall apply only to a school district which, by resolution of the governing body, votes to comply with the provisions of the School District Budget Act. If the governing body of a school district votes to comply with the School District Budget Act to govern its budget procedures, the provisions of the School District Budget Act shall take precedence over any other state laws applicable to school budgets, except as otherwise provided by the School District Budget Act. Any action of a school district governing body to implement or repeal budgeting procedures in compliance with the School District Budget Act shall be effective only at the beginning or end of a budget year respectively pursuant to the School District Budget Act. **(70-5-152)**

Section 111.4. Definitions.

As used in the School District Budget Act:

1. "Account" means an entity for recording specific revenues or expenditures, or for grouping related or similar classes of revenues and expenditures and recording them within a fund;

2. "Appropriation" means an authorization and allocation of money to be expended for a purpose;

3. "Budget" means a plan of financial operations for a fiscal year, including an estimate of proposed expenditures for given purposes and the proposed means for financing them;

4. "Budget summary" means a tabular listing of revenues by source and expenditures by fund for the budget year;

5. "Budget year" means the fiscal year for which a budget is prepared or is being prepared;

6. "Chief executive officer" means the superintendent of an independent school district or the elementary superintendent of a dependent school district;

7. "Current year" means the year in which the budget is prepared and adopted, or the fiscal year immediately preceding the budget year;

8. "Deficit" means the excess of the liabilities of a fund over its assets as reflected by its books of record;

9. "Estimated revenue" means the amount of revenues estimated to be received during the budget year in each fund for which a budget is prepared;

10. "Fiscal year" means the annual period for reporting fiscal operations which begins and ends on dates as the Legislature provides;

11. "Fund" means an independent fiscal and accounting entity with a self-balancing set of accounts to record cash and other financial resources, together with all liabilities, which are segregated for the purpose of carrying on specific activities for attaining certain objectives;

12. "Fund balance" means the excess of the assets of a fund over its liabilities, as reflected by its books of record;

13. "Governing body" means the board of education of the school district;

14. "Immediate prior fiscal year" means the year preceding the current year;

15. "Levy" means to impose ad valorem taxes or the total amount of ad valorem taxes for a purpose or entity;

16. "Operating reserve" means that portion of the fund balance which has not been appropriated in a budget year; and

17. "School district" means any independent or dependent school district or a technology center school district. **(70-5-153)**

Section 111.5. Preparation of Budget.

For a school district acting in accordance with the School District Budget Act, within the thirty-day period preceding the beginning of each fiscal year, a budget for the school district shall be approved by the governing body. The chief executive officer may require any other officer or employee who is charged with the management or control of any department or office of the school district to furnish estimates for the fiscal year covering estimated revenues and expenditures of the department or office on or before a date set by the chief executive officer. **(70-5-154)**

Section 111.6. Budget Summary - Public Hearings.

A. The school district budget shall represent a complete plan for the school district and shall present information necessary and proper to disclose the financial position and condition of the school district and the revenues and expenditures thereof, both past and anticipated.

B. A school district budget shall contain a budget summary. It shall also be accompanied by a budget message which shall explain the budget and describe its important features. It shall contain at least the following in tabular form for each fund:

1. Actual revenues and expenditures for the immediate prior fiscal year;

2. Revenues and expenditures for the current fiscal year as shown by the budget for the current year as adopted or amended; and

3. Estimates of revenues and expenditures for the budget year.

C. The school district governing body shall hold a public hearing on the proposed budget within forty-five (45) days preceding the beginning of the budget year. Notice of the date, time and place of the hearing, together with the proposed budget summary, shall be published in a newspaper of general circulation in the school district not less than five (5) days before the date of the hearing. The clerk of the board shall make available a sufficient number of copies of the proposed budget as the governing body shall determine and shall have them available for review or for distribution at the office of the chief financial officer. At the public hearing on the budget any person may present to the governing body comments, recommendations or information on any part of the proposed budget.

D. The adopted budget shall be in effect no later than the first day of the fiscal year to which it applies. The budget as adopted and filed with the State Auditor and Inspector shall constitute an appropriation for each fund, and the appropriation thus made shall not be used for any other purpose except as provided by law.

E. Each school district shall amend the original budget after June 30 of each year after the June financial activity has been recorded, the annual Foundation and Salary Incentive Aid allocation has been released, and the property tax valuations have been certified for all affected counties within the school district. The amended budget shall include all of the following information which is applicable:

1. Valuation of the school district by county and classification, excluding homestead exemptions;

2. Bonded debt and judgments outstanding, including interest rates by maturity;

3. Matured debt and judgments;

4. Sinking fund balance, including cash and investments;

5. Sinking fund levy calculations, including surplus/deficit, principal accrual, annual interest, judgment installment and interest, total net levy and delinquency;

6. Levies in millage for general fund, building fund and sinking fund;

7. Millage adjustment factor, if applicable;

8. Previous year sinking fund collections, including total proceeds as certified, additions or deductions, reserve for delinquent tax, reserve for protest pending, tax apportioned, net balance in process of collection, and excess collections; and

9. Surplus analysis, including itemized sources of excess and deductions.

F. At the time required by law, the county excise board shall levy the taxes necessary for the school district general fund, building fund and sinking fund for the budget year pursuant to Sections 397 and 399 of Title 62 of the Oklahoma Statutes, and for the school district general and building funds for the budget year pursuant to Section 9 of Article X of the Oklahoma Constitution. **(70-5-155)**

Section 111.7. Taxpayer Protests.

Within fifteen (15) days after the filing of any school district budget with the county excise board of each county in which the school district is located and with the State Auditor and Inspector, any taxpayer may file protests with the State Auditor and Inspector against any alleged illegality of the budget in the manner provided by this section and Sections 3023 through 3031 of Title 68 of the Oklahoma Statutes. The fifteen-day protest period begins upon the date the budget is received in the Office of the State Auditor and Inspector as filed by the county excise board. After receipt of a taxpayer protest, the State Auditor and Inspector shall transmit by certified mail one copy of each protest to the clerk of the board of education, and one copy of each protest to the school district treasurer and the excise board of each county in which the school district is located. The taxpayer protest shall specify the alleged illegality in the budget and the grounds upon which the alleged illegality is based. Any protest filed by any taxpayer shall inure to the benefit of all taxpayers. If no protest is filed by any taxpayer within the fifteen-day period, the budget and any appropriations thereof shall be deemed legal and final until amended by the governing body or the county excise board as authorized by law. Taxpayers shall have the right at all reasonable times to examine the budget on file with the clerk of the board of education, the county

excise board, or the State Auditor and Inspector for the purpose of checking illegalities in the budget or for filing protests in accordance with this section and Sections 3023 through 3031 of Title 68 of the Oklahoma Statutes. **(70-5-156)**

Section 111.8. Expenditures - Obligations.

A. No expenditure may be authorized or made by any officer or employee of a school district which exceeds the appropriation for any fund of the budget as adopted or amended. Any balance remaining in a fund at the end of the budget year shall be carried forward to the credit of the fund for the next budget year pursuant to law.

B. It shall be unlawful for any officer or employee of the school district in any budget year:

1. To create or authorize creation of a deficit in any fund; or

2. To authorize, make or incur expenditures or encumbrances in excess of one hundred percent (100%) of the appropriation for any fund of the budget as adopted or amended until revenues in an amount equal to at least one hundred percent (100%) of the appropriation for the fund have been collected. Any fund balance which is included in the appropriation for the fund is considered revenue in the budget year for which it is appropriated. Expenditures may then be made and authorized so long as any expenditure does not exceed any fund balance.

C. Any obligation that is contracted or authorized by any officer or employee in violation of this act shall become the obligation of the officer or employee himself and shall not be valid or enforceable against the school district. Any officer or employee who violates this act shall forfeit his office or position and shall be subject to such civil and criminal punishments as are provided by law. Any obligation, authorization for expenditure or expenditure made in violation of this act shall be illegal and void. **(70-5-157)**

Section 111.9. Funds - Accounts.

A school district shall establish funds consistent with legal and operating requirements. Each school district shall maintain according to its own needs some or all of the following funds or ledgers in its system of accounts:

1. A general fund, to account for all monies received and disbursed for general school district purposes, including all assets, liabilities, reserves, fund balances, revenues and expenditures which are not accounted for in any other fund or special ledger account;

2. Special revenue funds, as required, to account for the proceeds of specific revenue sources that are restricted by law to expenditures for specified purposes;

3. Debt service fund, which shall include the school district sinking fund, established to account for the retirement of general obligation bonds, building bonds, transportation bonds or other long term debt and payment of interest thereon and judgments as provided by law. Any monies pledged to service general obligation bonds, building bonds, transportation bonds or other long term debt must be deposited in the debt service fund;

4. Capital improvement fund, to account for financial resources segregated for acquisition, construction or other improvement related to capital facilities other than those financed by general long term debt;

5. Enterprise funds, to account for operations that are financial and operated in a manner similar to private business enterprises where the intent of the governing body is that the costs (expenses, including depreciation), of providing goods or services on a continuing basis be financed or recovered primarily through user charges or where there is a periodic need to determine revenues earned, expenses incurred or net income for a service or program;

6. Trust and agency funds, to account for assets held by the school district as trustee or agent for individuals, private organizations or other governmental units or purposes, such as a retirement fund, employee health insurance fund or a school activity fund;

7. Internal service funds, to account for the financing of goods or services provided by one department or agency of the school district to another department or agency, or to another government, on a cost reimbursement basis;

8. A ledger or group of accounts in which to record the details relating to the general fixed assets of the school district;

9. A ledger or group of accounts in which to record the details relating to the general obligation bonds, building bonds, transportation bonds or other long term debt of the school district; or

10. Such other funds or ledgers as may be established by the board of education. **(70-5-158)**

Section 111.10. Classifications of Revenues and Expenditures.

Each fund shall be made up of accounts for classifying revenues and expenditures. Revenues shall be classified separately by source. Expenditures shall be classified into the dimensions required by the State Department of Education or, for technology center schools, the Oklahoma Department of Career and Technology Education. **(70-5-159)**

Section 111.11. Transfers Between Funds or Accounts.

The chief executive officer, or designee, as authorized by the governing body, may transfer any unexpended and unencumbered appropriation or any portion thereof from one account to another within the same fund; except that no appropriation for debt service or other appropriation required by law or regulation may be reduced below the minimums required. Other interfund transfers may be made only as authorized by this act or as provided in the budget as adopted or amended according to this act. Whenever the necessity for maintaining any special fund of a school district has ceased to exist and a balance remains in the fund, the governing body may authorize the transfer of the balance to the general fund. Applicable law shall govern the use or transfer of any remaining balance in any debt service or bond fund. **(70-5-160)**

Section 111.12. Amendment of Budget.

A. The governing body may amend the budget to make supplemental appropriations to any fund up to the amount of additional revenues which are available for current expenses as shown by a fund balance for the fund due to:

1. Revenues received or allocated from sources not anticipated in the budget for that year;

2. Revenues received or allocated from anticipated sources but in excess of the budget estimates therefor; or

3. Unexpended unencumbered cash balances on hand at the end of the preceding fiscal year which had not been anticipated in the budget. Any appropriation authorizing the creating of an indebtedness shall be governed by the applicable provisions of Article X of the Oklahoma Constitution.

B. If at any time during the budget year it appears probable that revenues available will be insufficient to meet the amount appropriated, or that due to unforeseen emergencies there temporarily is insufficient money in a particular fund to meet the requirements of appropriation for the fund, the governing body may amend the budget to reduce one or more appropriations or it may amend the budget to transfer money from one fund to another fund, but no appropriation for debt service may be reduced and no appropriation may be reduced by more than the amount of the unencumbered and unexpended balance. No transfer shall be made from the debt service fund to any other fund except as may be permitted by the terms of the bond issue or by law.

C. Any budget amendment, as provided in this section, authorizing supplemental appropriations or a decrease or change in appropriation or funds shall be adopted by the governing body at a meeting held in accordance with the Oklahoma Open Meeting Act and filed with the clerk of the board of education, the county excise board of each county in which the school district is located, and the State Auditor and Inspector. **(70-5-161)**

Section 111.13. Transfer of Appropriations.

For the fiscal year ending June 30, 2004, the superintendent of a school district or designee may transfer any unexpended or unencumbered appropriation in an amount not to exceed twenty-five percent (25%) of the total appropriation from one account, fund, or program category to another account, fund, or program category. The amount to be transferred, together with all previous transfers, shall not exceed twenty-five percent (25%) of the total

appropriation to the account, fund or program category from which the transfer is being made. Provided, funds shall not be transferred between the general fund and building fund of any school district. The State Department of Education shall be notified in writing or electronically of all transfers at the time the transfers are made. **(70-5-170)**

Section 111.14 - 111.19. (Reserved)

Section 111.20. Registering Certificates of Indebtedness.

The treasurer of a school district to whom a certificate of indebtedness or bond is directed for payment shall register the certificate of indebtedness or bond by entering the number, the date, the name of the payee, the fund upon which it is drawn and the amount and shall write on the certificate or bond the date of registration and the name of the treasurer. Certificates of indebtedness or bonds shall be registered in the numerical order in which they are issued and, after registration, shall be given to the encumbrance clerk. No certificate of indebtedness or bond shall be a valid charge until registration by the treasurer. A board of education may contract for and pay a registrar or transfer agent to transfer ownership or change of payee of any certificate of indebtedness or bond issued by the school district and to maintain relevant books and records. The treasurer shall record payment of certificates of indebtedness or bonds and mark "paid" on the face of paid certificates of indebtedness or bonds. **(70-5-181)**

Section 111.21. Warrants in Excess of Estimated and Approved Expenses.

It shall be unlawful for any school district officer to issue, approve, sign, or attest any check, warrant or certificate of indebtedness in any form in excess of the estimate of expenses made and approved for the current fiscal year or authorized for such a purpose by a bond issue and any such check, warrant or certificate of indebtedness issued, approved, or authorized by a bond issue shall not be a charge against the school district upon which it is issued, but may be collected by civil action from any officer issuing, drawing, approving, signing, or attesting the same, or from either or all of them, or from their bondsmen. **(70-5-182)**

Section 111.22. Penalties Against Treasurer.

Any treasurer who shall willfully or knowingly register or pay a warrant, check or certificate of indebtedness, issued in excess of the estimate made and approved by the excise board for the current fiscal year or in excess of a bond issue for such purpose, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than One Thousand Dollars ($1,000.00) or by imprisonment in the county jail not exceeding one (1) year or by both the fine and imprisonment. **(70-5-183)**

Section 111.23. Penalties Against School Officer.

Any school district officer willfully or knowingly contracting, incurring, acknowledging, authorizing, allowing, or approving any indebtedness or any officer issuing, drawing, or attesting any check, warrant or certificate of indebtedness in excess of the estimate made and approved by the excise board for such purpose for the current fiscal year or in excess of the specific amount authorized for such purpose by a bond issue, shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than One Thousand Dollars ($1,000.00) or by imprisonment in the county jail for not to exceed one (1) year or by both the fine and imprisonment, and shall forfeit and be removed from office pursuant to state law. **(70-5-184)**

Section 111.24. Statute of Limitations on Warrants.

Without regard to the time when funds may be collected and are available to pay a check or warrant issued by a school district, any school district check or warrant shall be due one (1) year after the close of the fiscal year for which the check or warrant was issued and action may be commenced in any court of competent jurisdiction to enforce the liability evidenced by the check or warrant. Any action to enforce the liability evidenced by the check or warrant shall thereafter be barred, and the lapse of time need not be asserted as defense in any action for the school district to be relieved of liability. **(70-5-185)**

Section 111.25. Warrants in Excess of Appropriations.

It shall be unlawful for the governing board of education to issue any check, warrant or certificate of indebtedness, in any form, in payment of, or representing or acknowledging any account, claim, or indebtedness against the school district, or to make any contracts for, or incur any indebtedness against the school district in excess of the amount then unexpended and unencumbered of the sum appropriated for the specific item of estimated needs for such purpose theretofore made, submitted, and approved, or authorized for such purpose by a bond issue. The signature of the board president and clerk shall be notification to the public that the check or warrant is for the purpose and within the amount of the appropriation charged. **(70-5-186)**

Section 111.26. Publishing Notices of Claims.

All unencumbered balances, if any, as shown by the officer charged with keeping the appropriation and expenditure records of the school district on hand at the close of day June 30, may remain as a credit for said fiscal year up to the close of day September 30. If a date earlier than September 30 is established, the encumbrance clerk shall publish, on the district's web site for two consecutive times if also published in a daily newspaper and once if published in a weekly newspaper of general circulation in the school district, notice of the date set by the board of education for the submission of all claims against unencumbered balances of the prior fiscal year in the following form:

PUBLIC NOTICE

All having a claim against the ____ Public School District are notified that all invoices and required documentation pertaining to an approved purchase order for services rendered or goods or materials delivered pursuant to that purchase order must be recorded with the encumbrance clerk of the district on or before the ____ day of _____, 20__, covering all debts now unpaid and incurred during the period of the prior fiscal year beginning on July 1, 20__, and ending on June 30 20___, or the claim upon which the invoice or purchase order is based shall be void and forever barred.

_____
District Encumbrance Clerk

This section shall not permit the incurring of new indebtedness chargeable to the appropriation account of the immediately preceding fiscal year. **(70-5-187)**

Section 111.27. Supplemental Appropriation.

Provided all fund balances reserved for unencumbered balance of appropriations for the prior fiscal year on hand at the close of day set by the board of education in the current fiscal year, but in no event later than September 30, may be appropriated by supplemental appropriation to current expense purposes in the current fiscal year in the manner now provided by law. In the event of the recording of an estimated encumbrance or in the event of an increase in the cost of supplies, equipment, material, or services, these underestimations may be provided for during the time period set by the board by the cancellation of appropriations made by the county excise board prior to June 30, subject to the approval of both the governing board and the officer in charge of the department or appropriation account only in instances as set forth and only in amounts sufficient to pay the increased encumbrances, and by reapportionment to the appropriation accounts in which an underestimated encumbrance was made, all in the manner as now provided by law for the making of supplemental appropriations. **(70-5-188)**

Section 111.28. Duplicate Warrants.

A school district may issue a second or duplicate check or warrant in lieu of any check or warrant that has been issued and subsequently lost or destroyed. No second or duplicate check or warrant shall be issued until the school district has stopped payment on said item by the payor bank or, in the alternative, until an affidavit setting forth the facts as to the loss or destruction of the original check or warrant has been received by the school district from the payee, which affidavit may be received by facsimile transmission. The district board of each school district shall establish policies and procedures as will, as nearly as possible, preclude any loss being sustained by the school district on account of the issuance of any second or duplicate check or warrant. **(70-5-189)**

Section 111.29. Required Training for School Finance Officers.

A. Before July 1, 2007, every school district treasurer shall complete at least twelve (12) hours of instruction on school finance laws of this state, accounting, ethics, and the duties and responsibilities of a school district treasurer.

B. Before July 1, 2007, every school district encumbrance clerk shall complete at least twelve (12) hours of instruction on school finance laws of this state, accounting, ethics, and the duties and responsibilities of a school district encumbrance clerk.

C. Every school district treasurer and encumbrance clerk employed after July 1, 2007, shall be required, within nine (9) months after employment in the position by a school district, to complete the instruction required pursuant to subsections A and B of this section.

D. Every school district treasurer and encumbrance clerk shall be required to complete a minimum of twelve (12) hours of continuing education every three (3) years, in addition to the requirements of subsections A and B of this section.

The requirements of this section shall not apply to any county treasurer who also acts as a school district treasurer; however, nothing herein shall prevent a county treasurer from attending such training or continuing education. **(70-5-190)**

Note: Amended by SB 2968, Sec. 1 of the 2011 Reg. Sess. Effective November 1, 2011.

Section 112. Teachers - Contracts.

A. Except as provided in subsection E of this section, no person shall be permitted to teach in any school district of the state without a written contract, except as provided herein for substitute teachers and except teachers of classes in adult education. Except as provided in subsection J of this section, the board of education of each school district, wherein school is expected to be conducted for the ensuing year, shall employ and contract in writing with qualified teachers for and in the name of the district. One copy of the contract shall be filed with the clerk of the board of education and one copy shall be retained by the teacher.

B. Except as otherwise provided by subsection J of this section and any other law, no board of education shall have authority to enter into any written contract with a teacher who does not hold a valid certificate issued or recognized by the State Board of Education authorizing said teacher to teach the grades or subject matter for which the teacher is employed. Any board of education paying or authorizing the payment of the salary of any teacher not holding a certificate, as required herein, shall be adjudged to be guilty of a fraudulent expenditure of public funds and members voting for such payment shall be held jointly responsible for the return of the amount of any public monies thus expended, upon suit brought by the district attorney or by any interested citizen in the district where such funds have been expended.

C. It shall be the duty of the superintendent of schools under whose supervision teachers have been contracted to teach to certify to the treasurer of the contracting district the names of the teachers holding valid certificates with whom contracts have been made and the names of substitute teachers employed in accordance with law. The treasurer shall not register any warrant issued in payment of salary to any teacher whose name is not included in such list and shall be liable on the official bond for the treasurer for the amount of any warrant registered in violation of the provisions of this section.

D. Whenever any person shall enter into a contract with any school district in Oklahoma to teach in such school district the contract shall be binding on the teacher and on the board of education until the teacher legally has been discharged from the teaching position or released by the board of education from the contract. Except as provided in Section 5-106A of this title, until such teacher has been thus discharged or released, the teacher shall not have authority to enter into a contract with any other board of education in Oklahoma for the same time covered by the original contract. If upon written complaint by the board of education in a district any teacher is reported to have failed to obey the terms of the contract previously made and to have entered into a contract with another board of education without having been released from the former contract except as provided in Section 5-106A of this title, the teacher, upon being found guilty of such charge at a hearing held before the State Board of Education, shall have such teacher's certificate suspended for the remainder of the term for which the contract was made.

E. A board of education shall have authority to enter into written contracts with teachers for the ensuing fiscal year prior to the beginning of such year. If, prior to the first Monday in June, a board of education has not entered into a written contract with a regularly employed teacher or notified the teacher in writing by registered or certified mail that a recommendation has been made not to reemploy the teacher for the ensuing fiscal year, and if, by fifteen (15) days after the first Monday in June, such teacher has not notified the board of education in writing by registered or certified mail that such teacher does not desire to be reemployed in such school district for the ensuing year, such teacher shall be considered as employed on a continuing contract basis and on the same salary schedule used for other teachers in the school district for the ensuing fiscal year, and such employment and continuing contract shall be binding on the teacher and on the school district.

F. Whenever a school district is engaged in contract negotiations with teachers employed by that school district after the school year has begun and the teachers are employed on a continuing contract basis, the school district shall, beginning at the first of the school year, pay the teachers any state-mandated salary increases and salary schedule increases to which each teacher is otherwise entitled.

G. No school district or any member of the board of education of a district shall be liable for the payment of compensation to a teacher or administrator under the provisions of any contract for the ensuing year, if it becomes necessary to close the school because of insufficient attendance, disorganization, annexation, consolidation, or by dispensing with the school according to law, provided, such cause is known or action is taken prior to July 1 of such ensuing year.

H. No school district or any member of a board of education shall be liable for the payment of compensation to any teacher or administrator for the unexpired term of any contract if the school building to which the teacher or administrator has been assigned is destroyed by accident, storm, fire, or otherwise and it becomes necessary to close the school because of inability to secure a suitable building or buildings for continuation of school. Teachers and administrators shall be entitled to pay for any time lost when school is closed on account of epidemics or otherwise when an order for such closing has been issued by a health officer authorized by law to issue the order.

I. A teacher may contract with more than one school district for the same school year as provided in Section 5-106A of this title.

J. A board of education shall have authority to enter into written contracts for the ensuing fiscal year prior to the beginning of the year with persons who are not certified or licensed to teach by the State Board of Education as long as the person is actively in the process of securing certification or licensure. The person shall not be allowed to teach in a classroom until the person has met or completed all of the requirements for licensure or certification as provided for in Section 6-190 of this title. If the person has not obtained valid certification or licensure by the first day of the ensuing school year, the contract shall be terminated. **(70-6-101)**

A teacher's failure to obtain the proper certification required for continuing in the position serves to transform an employment contract from a legal one to an illegal one and thus to extinguish it. *Guthrie v. ISD No. 30 of Adair County, Cave Springs Public Schools*, 1998 OK CIV APP 47, 958 P.2d 802 .

The Legislature used the terms "teacher" and "administrator" when it intended a provision to apply to both. Therefore, a superintendent or administrator is not subject to the continuing contract law set forth in §6-101(E) which states that it is only applicable to a "teacher." *Brandon v. Ashworth*, 1998 OK 20, 955 P.2d 233.

The right of tenured teacher is continuing employment, not the right to be employed in any particular position. *Maupin v. ISD No. 26*, 632 P.2d 396 (Okla. 1981)

There are no statutory notification requirements applicable to a teacher who decides not to fulfill his or her contract after April 25, in view of the fact that a binding contract has been formed. *July 10, 1981 (AG Op. No. 81-156)*

When teacher was not notified properly before April 10 that her contract would not be renewed, her contract automatically renewed for the next academic year, and she was entitled to her expectation interest under the contract. *Cave Springs Public Sch. Dist. I-30 v. Blair*, 613 P.2d 1046 (Okla. 1980)

Statute requires board of education to give notice to teacher. Letter from superintendent to board of education recommending non-renewal was insufficient to act as a termination letter. As to April 10 deadline, teacher must have notice prior to April 10, not on April 10. *Morrison v. Board of Ed. Weatherford Public Schools*, 2002 OK CIV APP 52, 47 P.3d 888.

When tenured teacher is not reemployed due to loss of federal funding, school board is not required to employ teacher in a position which subsequently becomes available. *September 2, 1980 (AG Op. No. 80-197)*

Minimum salary increases mandated by law, collective bargaining agreement or unilateral act of board of education must be paid even where teaching personnel are reassigned to positions which do not justify as high a salary as they were previously receiving. *August 21, 1980 (AG Op. No. 80-137)*

Teacher can be paid more than minimum salary schedule but cannot be required to donate part of compensation to school activity fund or other charity. *January 17, 1980 (AG Op. No. 79-338)*

All contracts with teacher are annual contracts. *January 18, 1980 (AG Op. No. 79-316)*

Teacher can refuse to sign contract if there is a bona fide reason asserted in good faith. *January 18, 1980 (AG Op. No. 79-316)*

Refusal of teacher to sign contract unsupported by bona fide reason asserted in good faith constitutes voluntary refusal of employment. *January 18, 1980 (AG Op. No. 79-316)*

Board of Education can refuse to renew contract of teacher, whether probationary or tenured, when teaching position is to be eliminated. *June 1, 1979 (AG Op. No. 79-151)*

Bonus may be paid to district employees, if employment contracts so provide. *December 12, 1977 (AG Op. No. 77-239)*

Teacher's continuing employment contracts and tenure do not violate Oklahoma Constitution. *February 23, 1977 (AG Op. No. 77-112)*

Section 113. Annuity Contracts for Teachers or Full-time Employees.

A. A part of the salary, not to exceed the limitations on deferrals provided in Section 403(b)of the Internal Revenue Code of 1986, as amended, payable to a teacher or employee by a school district may, at the election of such teacher or employee, be deferred for the investment in an annuity contract from any insurance company authorized to do business in Oklahoma or by the investment in shares of regulated investment companies to be held in a custodial account as authorized by Section 403(b)(7) of the Internal Revenue Code of 1986, as amended, or by the investment in a face amount investment annuity certificate issued by a company authorized to do business in Oklahoma by the district for the teacher or employee, provided that such teacher or employee is eligible to defer a portion of their salary under the terms of the school district's 403(b) plan; and the teacher or employee shall be entitled to have such annuity contract, custodial account or face amount investment annuity certificate continued in force in succeeding years by such school district or any other school district subsequently employing the teacher. Provided, that such amounts contributed or paid by a school district must be made to vendors approved by such school district as eligible to receive the elective deferrals. Provided further, that a school district may revoke a previously approved vendor's eligibility to receive elective deferrals, thereby prohibiting future contributions or payments to such vendor until it regains its eligibility through subsequent approval from such school district. The amounts so contributed or paid by the school district for the annuity contract, custodial account or face amount investment annuity certificate, or to continue it in force, shall be considered as payment of salary, for the same amounts, to the teacher or employee for State Aid purposes, Teachers' Retirement System purposes, or Social Security purposes, but not for state income tax purposes. Provided that the amount received under such annuity contracts, custodial accounts or face amount investment annuity certificates shall be income subject to state income tax when actually received, unless otherwise exempt from income tax.

B. The provisions of subsection A of this section shall also apply to employees of institutions, agencies and boards comprising The Oklahoma State System of Higher Education who are eligible to defer a portion of their salary under the terms of such institution, agency or board's 403(b) plan. Such institutions, agencies and boards may purchase annuity contracts, custodial accounts or face amount investment annuity certificates from vendors approved by such institution, agency or board as eligible to receive such contributions or payments, provided that such vendor is:

1. An insurance company authorized to do business in Oklahoma;

2. A life insurance or annuity company organized and operated, without profit to any private shareholder or individual, exclusively for the purpose of aiding and strengthening educational institutions by issuing insurance and annuity contracts only to or for the benefit of such institutions and individuals engaged in the services of such institutions; or

3. A broker dealer licensed to sell shares of regulated investment companies to be held in custodial accounts as authorized by Section 403(b)(7) of the Internal Revenue Code of 1986, as amended.

Provided further, that an institution, agency or board may revoke a previously approved vendor's eligibility to receive elective deferrals, thereby prohibiting future contributions or payments to such vendor until it regains its eligibility through subsequent approval from such institution, agency or board. **(70-6-101.1)**

> While a school district may not impose additional restrictions other than those authorized by statute, it has implied discretion within these specified limitations to choose an appropriate entity with which to contract. This choice remains with the school district, as it is a party to the contract in contrast to the teacher or full-time employee who may have enforceable rights pursuant to the contract but is not a party. *September 11, 1991 (AG Inf. Op. No. 91-625)*

Section 114. Re-employment of Retired Administrators.

A. No local board of education or administration of a school district or State Board of Education shall enter into a contract for consultant services with any person who has retired as an administrator with any school district for two (2) years after the retirement date of such administrator. Nothing in this section shall prohibit a board of education from employing as a substitute teacher, a person who has retired as an administrator or teacher with a school district within two (2) years after the retirement date of the person.

B. In order for a local board of education, administration of a school district or the State Board of Education to enter into a contract with a person for consultant services as authorized by subsection A of this section, the contract shall contain:

1. A specific list of duties to be performed by the person or by any business entity, regardless of form, from which the person who actually performs the services is authorized to derive any economic benefit, whether direct or indirect;

2. A stated purpose for the contract and the specifically identified need for the services to be performed;

3. An estimate of the duration of the contract, including anticipated periods during which the contract may be renewed;

4. A requirement that the person or business entity performing the consultant service provide the office space, supplies, personnel and other items of expense required in order to perform the contract;

5. A requirement that the person or business entity performing the consultant service provide a written description of services performed under the contract no less than one time each quarter of the year during which the contract is in effect; and

6. A specific identification of all persons who are authorized to perform obligations imposed pursuant to the contract upon behalf of the person or business entity providing consultant services.

C. No local board of education, administration of a school district or State Board of Education may enter into a contract with a natural person who will be employed for any period of time during which there is in force and effect a contract for consultant services to be performed by that person or by a business entity, regardless of form, from which the person employed is authorized to derive any economic benefit, whether direct or indirect. Nothing in this section shall prohibit a local board of education of a school district from contracting to pay for the attendance of school district employees at classes or workshops conducted by a company that employs one or more of the school district employees to conduct the classes or workshops. **(70-6-101.2)**

> Board of education is prohibited from employing an individual who is also under contract with school district as consultant, whether consultant contract is with individual or with company employing individual, including contracts to present workshops and consultant contracts for summer services which are unrelated to the education field. *July 1, 1999 (AG Op. No. 99-31)*

Section 115. Definitions. (Version 1)

1. "Administrator" means a duly certified person who devotes a majority of time to service as a superintendent, elementary superintendent, principal, supervisor, vice principal or in any other administrative or supervisory capacity in the school district;

2. "Dismissal" means the discontinuance of the teaching service of an administrator or teacher during the term of a written contract, as provided by law;

3. "Nonreemployment" means the nonrenewal of the contract of an administrator or teacher upon expiration of the contract;

4. "Career teacher" means a teacher who has completed three (3) or more consecutive complete school years in such capacity in one school district under a written teaching contract;

5. "Teacher hearing" means the hearing before a local board of education after a recommendation for dismissal or nonreemployment of a teacher has been made but before any final action is taken on the recommendation, held for the purpose of affording the teacher all rights guaranteed by the United States Constitution and the Constitution of Oklahoma under such circumstances and for enabling the board to determine whether to approve or disapprove the recommendation;

6. "Probationary teacher" means a teacher who has completed fewer than three (3) consecutive complete school years in such capacity in one school district under a written teaching contract;

7. "Suspension" or "suspended" means the temporary discontinuance of the services of an administrator or teacher, as provided by law; and

8. "Teacher" means a duly certified or licensed person who is employed to serve as a counselor, librarian or school nurse or in any instructional capacity An administrator shall be considered a teacher only with regard to service in an instructional, nonadministrative capacity. **(70-6-101.3)**

Note: Amended by HB 1380, Sec. 1 of the 2011 Reg. Sess. Version 1: Effective until 06/30/2012.

Section 115. Definitions. (Version 2)

1. "Administrator" means a duly certified person who devotes a majority of time to service as a superintendent, elementary superintendent, principal, supervisor, vice principal or in any other administrative or supervisory capacity in the school district;

2. "Dismissal" means the discontinuance of the teaching service of an administrator or teacher during the term of a written contract, as provided by law;

3. "Nonreemployment" means the nonrenewal of the contract of an administrator or teacher upon expiration of the contract;

4. "Career teacher" means a teacher who:

   a. for teachers employed by a school district during the 2011-12 school year, has completed three (3) or more consecutive complete school years as a teacher in one school district under a written continuing or temporary teaching contract, or

   b. for teachers employed for the first time by a school district under a written continuing or temporary teaching contract on or after July 1, 2012:

      (1) has completed three (3) consecutive complete school years as a teacher in one school district under a written continuing or temporary teaching contract and has achieved a rating of "superior" as measured pursuant to the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) as set forth in Section 6 of this act for at least two (2) of the three (3) school years, with no rating below "effective",

      (2) has completed four (4) consecutive complete school years as a teacher in one school district under a written continuing or temporary teaching contract, has averaged a rating of at least "effective" as measured pursuant to the TLE for the four-year period, and has received a rating of at least "effective" for the last two (2) years of the four-year period, or

(3) has completed four (4) or more consecutive complete school years in one school district under a written continuing or temporary teaching contract and has not met the requirements of subparagraph a or b of this paragraph, only if the principal of the school at which the teacher is employed submits a petition to the superintendent of the school district requesting that the teacher be granted career status, the superintendent agrees with the petition, and the school district board of education approves the petition. The principal shall specify in the petition the underlying facts supporting the granting of career status to the teacher;

5. "Teacher hearing" means the hearing before a school district board of education after a recommendation for dismissal or nonreemployment of a teacher has been made but before any final action is taken on the recommendation, held for the purpose of affording the teacher all rights guaranteed by the United States Constitution and the Constitution of Oklahoma under circumstances and for enabling the board to determine whether to approve or disapprove the recommendation;

6. "Probationary teacher" means a teacher who:

a. for teachers employed by a school district during the 2011-12 school year, has completed fewer than three (3) consecutive complete school years as a teacher in one school district under a written teaching contract, or

b. for teachers employed for the first time by a school district under a written teaching contract on or after July 1, 2012, has not met the requirements for career teacher as provided in paragraph 4 of this section;

7. "Suspension" or "suspended" means the temporary discontinuance of the services of an administrator or teacher, as provided by law; and

8. "Teacher" means a duly certified or licensed person who is employed to serve as a counselor, librarian or school nurse or in any instructional capacity; an administrator shall be considered a teacher only with regard to service in an instructional, nonadministrative capacity. **(70-6-101.3)**

Note: Amended by HB 1380, Sec. 2 of the 2011 Reg. Sess. Version 2: Effective 07/01/2012.

A teacher who signs a temporary teacher contract prior to the end of her third consecutive year of teaching is not a "career teacher" at the time of the signing and has no rights to tenure at that time. To receive tenure, a teacher must have completed a third successful year of teaching. *Scheer v. ISD No. I-26, Afton Public Schools*, 1997 OK 115, 948 P.2d 275.

Teacher receiving notice before April 10 of 3rd year of teaching that he will not be offered contract for succeeding year had not "completed" 3 years of teaching when notified of nonrenewal. *Scott v. Okla. State Board of Education*, 618 P.2d 410 (Okla. App. 1980)

Teaching of half-days during school term does not prevent counting term on tenure. *ISD No. 10 v. Lollar*, 547 P.2d 1324 (Okla. App. 1976)

Payment of most of teacher's salary from Federal Funds does not prevent teacher from acquiring tenure. *ISD No. 10 v. Lollar*, 547 P.2d 1324 (Okla. App. 1976)

Term "Consecutive, complete school years" refers to successive years for the designated number of days that school will be in session beginning with the day instruction is offered. *January 16, 1984 (AG Op. No. 83-253)*

A fraction of a year cannot be considered in computing length of teaching service necessary to establish tenure. *November 23, 1977 (AG Op. No. 77-249)*

Section 116. Elementary Districts - Powers and Duties of Elementary Superintendents.

The powers and duties set forth in Section 6-101 et seq. of Title 70 of the Oklahoma Statutes for the superintendent of a school district shall be exercised by the elementary superintendent in elementary school districts. **(70-6-101.4)**

Section 117. Legislative Authority.

Any rights created by Sections 6-101 et seq. of Title 70 of the Oklahoma Statutes are subject to modification, amendment, termination and repeal by the Legislature. **(70-6-101.5)**

Section 117.1. Information Required in Contracts of Administrators or Teachers.

A. All contracts for employment of, or related employee information worksheets for, a teacher or administrator by a district board of education shall include the following categories in a clear and concise format:

1. Employee information including:

   a. employee's name,

   b. degree(s) employee holds,

   c. number of years of teaching credit for salary purposes, and

   d. step placement on salary schedule;

2. Salary information including:

   a. pay based on state minimum salary schedule,

   b. district salary supplement,

   c. extra-duty or extracurricular salary amounts, itemized,

   d. other salary,

   e. total salary,

   f. dollar amount of salary paid in cash, and

   g. dollar amount of salary paid in fringe benefits, as defined and allowed by Section 18-114.7 of Title 70 of the Oklahoma Statutes, with an itemized list of each benefit and amount paid toward it; and

3. Benefits information including:

   a. state-paid flexible benefit allowance amount,

   b. district-paid retirement contributions (over any amount for retirement insurance paid as part of salary and excluding any amounts paid pursuant to Section 17-108.1 of Title 70 of the Oklahoma Statutes),

   c. district-paid health insurance (over any amount paid as part of salary),

   d. other district-paid benefits, such as life, dental, disability, salary protection, vision, cancer, health supplemental insurance (over any amount paid as part of salary),

   e. other benefits, with an itemized list of each benefit and dollar amount paid toward it (not including any benefits paid as part of salary), and

   f. total district-paid benefits (not including any benefits paid as part of salary).

B. Beginning with the school year 2004-05, the State Department of Education shall require in its annual personnel report the amounts paid in each category set out in subparagraphs a through g of paragraph 2 and subparagraphs a through f of paragraph 3 of subsection A of this section, disaggregated by the categories of administrative personnel and certified teaching personnel. **(70-6-101.6)**

Section 117.2. Hearing Procedures - Limitations on Participation of Certain School Representatives.

An attorney, representative, or other designee of the school district who has represented or represents a school district or the administration of a school district at a hearing held for the purpose of affording due process rights and requirements for an administrator as provided for in Section 6-101.13 of Title 70 of the Oklahoma Statutes, a teacher as provided for in Section 6-101.26 of Title 70 of the Oklahoma Statutes, or a support employee as provided for in Section 6-101.46 of Title 70 of the Oklahoma Statutes or who has been involved or participated in any prehearing actions of the school district with respect to a recommendation for the termination of employment or nonreemployment of an administrator, teacher, or support employee shall not:

1. Conduct or preside as the hearing officer or judge at a due process hearing or hearings; and

2. Attend, advise at, or in any way influence an executive session of the school district board of education that is held in conjunction with a due process hearing or hearings if the attorney, representative, or other designee of the school district conducted or presided over the due process hearing or hearings as the hearing officer or judge. **(70-6-101.7)**

Section 118. Evaluation of Teachers and Administrators.

A. Each school district board of education shall maintain and annually review, following consultation with or involvement of representatives selected by local teachers, a written policy of evaluation for all teachers and administrators. In those school districts in which there exists a professional negotiations agreement made in accordance with Sections 509.1 et seq. of this title, the procedure for evaluating members of the negotiations unit and any standards of performance and conduct proposed for adoption beyond those established by the State Board of Education shall be negotiable items. Nothing in this section shall be construed to annul, modify or to preclude the renewal or continuing of any existing agreement heretofore entered into between any school district and any organizational representative of its employees. Every policy of evaluation adopted by a board of education shall:

1. Be based upon a set of minimum criteria developed by the State Board of Education, which by no later than the 2013-14 school year, shall be revised and based upon the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) developed by the State Board of Education as provided in Section 6 of this act;

2. Be prescribed in writing at the time of adoption and at all times when amendments to the policy are adopted. The original policy and all amendments to the policy shall be promptly made available to all persons subject to the policy;

3. Provide that all evaluations be made in writing and that evaluation documents and responses thereto be maintained in a personnel file for each evaluated person;

4. Provide that every probationary teacher be evaluated at least two times per school year, once prior to November 15 and once prior to February 10 of each year;

5. Provide that every teacher be evaluated once every year, except as otherwise provided by law; and

6. Provide that, except for superintendents of independent and elementary school districts and superintendents of area school districts, who shall be evaluated by the school district board of education, all certified personnel shall be evaluated by a principal, assistant principal, or other trained certified individual designated by the school district board of education.

B. All individuals designated by the school district board of education to conduct the personnel evaluations shall be required to participate in training conducted by the State Department of Education or training provided by the school district using guidelines and materials developed by the State Department of Education prior to conducting evaluations.

C. The State Department of Education shall develop and conduct workshops pursuant to statewide criteria which train individuals in conducting evaluations.

D. The State Board of Education shall monitor compliance with the provisions of this section by school districts.

E. Refusal by a school district to comply with the provisions of this section shall be grounds for withholding State Aid funds until compliance occurs. **(70-6-101.10)**

All evaluation policies adopted by Oklahoma school districts must be based upon minimum criteria developed by the State Board of Education; in those school districts with previously existing professional negotiation agreements, the negotiated provisions must comply with the State Board of Education minimum criteria; the provisions of the evaluation procedure are mandatory topics of professional negotiations; the criteria negotiated and adopted may exceed the minimum criteria promulgated by the State Board of Education. *January 9, 1987 (AG Op. No. 86-146)*

Teacher evaluations may be conducted by a teaching principal. *September 20, 1977 (AG Op. No. 77-235)*

Section 119. Teacher's Response to Evaluation.

Whenever any evaluation is made of a teacher or administrator, a true copy of the evaluation shall be presented to the person evaluated, who shall acknowledge the written evaluation by signing the original. Within two (2) weeks after the evaluation, the person evaluated may respond and said response shall be made part of the record. Except by order of a court of competent jurisdiction, evaluation documents and the responses thereto shall be available only to the evaluated person, the board of education, the administrative staff making the evaluation, the board and administrative staff of any school to which such evaluated person applies for employment and such other persons as are specified by the teacher in writing and shall be subject to disclosure at a hearing or trial de novo. **(70-6-101.11)**

Contents of evaluation documents and responses may not be disclosed to anyone other than the classes of persons specifically designated, whether meeting of board is in open or in executive session, unless teacher affirmatively waives confidentiality. *April 26, 1979 (AG Op. No. 79-80)*

Section 120. Dismissal or Nonreemployment of Administrator Procedure.

Whenever the local board of education or the administration of a school district shall determine that the dismissal or nonreemployment of a fulltime certified administrator from his administrative position within the school district should be effected, the administrator shall be entitled to the following due process procedures:

1. A statement shall be submitted to the administrator in writing prior to the dismissal or nonreemployment which states the proposed action, lists the reasons for effecting the action, and notifies the administrator of his right to a hearing before the local board of education prior to the action; and

2. A hearing before the local board of education shall be granted upon the request of such administrator prior to the dismissal or nonreemployment. A request for a hearing shall be submitted to the board of education not later than ten (10) days after the administrator has been notified of the proposed action.

Failure of the administrator to request a hearing before the local board of education within ten (10) days after receiving the written statement shall constitute a waiver of the right to a hearing. No decision of the local board of education concerning the dismissal or nonreemployment of a fulltime certified administrator shall be effective until the administrator has been afforded due process as specified in this section. The decision of the local board of education concerning the dismissal or nonreemployment, following the hearing, shall be final. **(70-6-101.13)**

Note: Amended by SB 2033 of the 2nd Session of the 52nd Legislature. The amendments will become effective 07/01/2012. The amendments are not included in this edition of the School Laws of Oklahoma.

The Legislature intended to extend the protections of this section to administrators employed on a full-time basis, even if temporarily. *Scott v. Independent School Dist. No. 22 of Pushmataha County*, 2010 OK CIV APP 40.

Legislature has presumed constitutionally protected interest for certified administrators by mandating *Loudermill* due process requirements for dismissal or nonreemployment of a certified administrator; such due process includes an impartial tribunal. However, such due process does not include a right of appeal as is provided tenured teachers. *Hoerman v. Western Heights Board of Education*, 913 P.2d 684 (Okla. App. 1995).

Legislature intended that cause for dismissal or nonreemployment of a certified administrator be determined upon the facts of each case. *Hoerman v. Western Heights Board of Education*, 913 P.2d 684 (Okla. App. 1995).

Section 121. Suspension of Administrator.

Whenever the local board of education or the administration of a school district has reason to believe that cause exists for the dismissal of an administrator, and when they are of the opinion that the immediate suspension of an administrator would be in the best interests of the children in the district, the local board of education or the superintendent of the school district may suspend the administrator without notice or hearing. However, the suspension of the administrator shall not deprive the administrator of any compensation or other benefits to which he or she would otherwise be entitled under his or her contract or pursuant to law. Within ten (10) days' time after such suspension becomes effective, the local board of education shall initiate proceedings pursuant to Section 6-102.4 of this title to have the administrator dismissed. However, in a case involving a criminal charge or indictment, such suspension may extend to such time as the administrator's case is finally adjudicated at a trial. Provided, however, such extension shall not include any appeal process. **(70-6-101.14)**

Section 122. Administrators - Conviction of Felony - Criminal Sexual Activity or Sexual Misconduct.

A. An administrator shall be dismissed or not reemployed, unless a presidential or gubernatorial pardon has been issued, if during the term of employment such administrator is convicted in this state, the United States or another state of:

1. Any sex offense subject to the Sex Offenders Registration Act in this state or subject to another state's or the federal sex offender registration provisions; or

2. Any felony offense.

B. An administrator may be dismissed, refused employment or not reemployed after a finding that such person has engaged in criminal sexual activity or sexual misconduct that has impeded the effectiveness of the individual's performance of school duties. As used in this subsection:

1. "Criminal sexual activity" means the commission of an act as defined in Section 886 of Title 21 of the Oklahoma Statutes, which is the act of sodomy; and

2. "Sexual misconduct" means the soliciting or imposing of criminal sexual activity. **(70-6-101.15)**

Section 122.1. Teacher and Leader Effectiveness Evaluation System – Implementation.

A. By December 15, 2011, the State Board of Education shall adopt a new statewide system of evaluation to be known as the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE).

B. The TLE shall include the following components:

1. A five-tier rating system as follows:

   a. superior,

   b. highly effective,

   c. effective,

   d. needs improvement, and

   e. ineffective;

2. Annual evaluations that provide feedback to improve student learning and outcomes;

3. Comprehensive remediation plans and instructional coaching for all teachers rated as needs improvement or ineffective;

4. Quantitative and qualitative assessment components measured as follows:

a. fifty percent (50%) of the ratings of teachers and leaders shall be based on quantitative components which shall be divided as follows:

(1) thirty-five percentage points based on student academic growth using multiple years of standardized test data, as available, and

(2) fifteen percentage points based on other academic measurements, and

b. fifty percent (50%) of the rating of teachers and leaders shall be based on rigorous and fair qualitative assessment components;

5. An evidence-based qualitative assessment tool for the teacher qualitative portion of the TLE that will include observable and measurable characteristics of personnel and classroom practices that are correlated to student performance success, including, but not limited to:

a. organizational and classroom management skills,

b. ability to provide effective instruction,

c. focus on continuous improvement and professional growth,

d. interpersonal skills, and

e. leadership skills;

6. An evidence-based qualitative assessment tool for the leader qualitative portion of the TLE that will include observable and measurable characteristics of personnel and site management practices that are correlated to student performance success, including, but not limited to:

a. organizational and school management, including retention and development of effective teachers and dismissal of ineffective teachers,

b. instructional leadership,

c. professional growth and responsibility,

d. interpersonal skills,

e. leadership skills, and

f. stakeholder perceptions; and

7. For those teachers in grades and subjects for which there is no state-mandated testing measure to create a quantitative assessment for the quantitative portion of the TLE, an assessment using objective measures of teacher effectiveness including student performance on unit or end-of-year tests. Emphasis shall be placed on the observed qualitative assessment as well as contribution to the overall school academic growth.

C. The Teacher and Leader Effectiveness Commission shall provide oversight and advise the State Board of Education on the development and implementation of the TLE.

D. The State Department of Education shall provide to the Oklahoma State Regents for Higher Education and the Oklahoma Commission for Teacher Preparation timely electronic data linked to teachers and leaders derived from the TLE for purposes of providing a basis for the development of accountability and quality improvements of the teacher preparation system. The data shall be provided in a manner and at such times as agreed upon between the Department, the State Regents and the Commission.

E. For purposes of this section, "leader" means a principal, assistant principal or any other school administrator who is responsible for supervising classroom teachers. **(70-6-101.16)**

Note: Amended by HB 1267, Sec. 1 of the 2011 Reg. Sess. Effective July 1, 2011.

Section 122.2. Teacher and Leader Effectiveness Commission.

A. There is hereby created to continue until July 1, 2016, in accordance with the provisions of the Oklahoma Sunset Law, the Teacher and Leader Effectiveness Commission.

B. The membership of the Commission shall consist of:

1. The Superintendent of Public Instruction, or designee;

2. A member of the Senate, appointed by the President Pro Tempore of the Senate;

3. A member of the House of Representatives, appointed by the Speaker of the House of Representatives;

4. A member of the Senate, appointed by the Minority Leader of the Senate;

5. A member of the House of Representatives, appointed by the Minority Leader of the House of Representatives;

6. A representative from the Office of the Governor or the executive cabinet, appointed by the Governor;

7. The Executive Director of the Oklahoma Commission for Teacher Preparation, or designee;

8. A representative of a technology center school district, appointed by the Director of the Oklahoma Department of Career and Technology Education;

9. A representative of an institution within The Oklahoma State System of Higher Education, appointed by the Chancellor of Higher Education;

10. A representative of a statewide organization representing school district boards of education, appointed by the President Pro Tempore of the Senate;

11. A representative of a statewide organization representing public school superintendents, appointed by the Speaker of the House of Representatives;

12. A representative of a statewide organization representing business and education, appointed by the President Pro Tempore of the Senate;

13. An individual employed by a business or company located in this state, appointed by the Speaker of the House of Representatives;

14. Three (3) representatives, one (1) from each of the three (3) largest statewide organizations representing active public school teachers, appointed by the Governor;

15. A representative of a statewide parent-teacher organization, appointed by the Governor;

16. A representative of a philanthropic organization involved in education, appointed by the Governor; and

17. An individual involved in Science, Technology, Engineering and Mathematics (STEM) education, appointed by the Governor.

C. Initial appointments pursuant to the provisions of this section shall be made no later than August 1, 2010. Members shall serve at the pleasure of the appointing authority. Vacancies shall be filled by the original appointing authority. The State Superintendent of Public Instruction, or designee, shall serve as chair of the Commission. Members

of the Commission shall select a vice-chair from the membership of the Commission. Meetings of the Commission shall be held at the call of the chair. A majority of the members of the Commission shall constitute a quorum for the transaction of any business.

D. Members of the Commission shall receive no compensation for serving on the Commission, but shall receive travel reimbursement as follows:

1. State employees who are members of the Commission shall be reimbursed for travel expenses incurred in the performance of their duties by their respective agencies in accordance with the State Travel Reimbursement Act;

2. Legislative members shall be reimbursed in accordance with Section 456 of Title 74 of the Oklahoma Statutes; and

3. All other members of the Commission shall be reimbursed by the State Department of Education for travel expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.

E. Staff support for the Commission shall be provided by the State Department of Education and the Oklahoma Commission for Teacher Preparation.

F. Members who serve on the Commission shall be exempt from the dual-office-holding prohibitions of Section 6 of Title 51 of the Oklahoma Statutes.

G. The Commission shall comply with the provisions of the Oklahoma Open Meeting Act and the Oklahoma Open Records Act.

H. The duties of the Commission, as specified in subsection I of this section, shall not be contingent upon the state being selected to receive or the state actually receiving any federal Race to the Top funding.

I. The Commission shall provide oversight and advise the State Board of Education on the development and implementation of the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) as created in Section6-101.16 of this title, including:

1. Making recommendations to the State Board regarding the development and implementation of the TLE prior to adoption of any permanent rules or policies by the State Board;

2. Regularly reviewing progress toward development and implementation of the quantitative and qualitative measures that comprise the TLE;

3. Regularly reviewing progress toward timely access to student growth data;

4. Regularly reviewing the correlation between the quantitative and qualitative scores and other data to ensure that the TLE is being implemented with validity and that evaluations of individuals conducted by school districts are meaningful and demonstrate that reasonable distinctions are being made relating to performance;

5. Assuring input and participation from teachers and leaders on the development and implementation of the TLE;

6. Gathering public comment on the development and effectiveness of the TLE; and

7. Assuring that the TLE is based on research-based national best practices and methodology.

J. The Commission shall issue a report by December 31 of each year and submit a copy of the report to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate. **(70-6-101.17)**

Note: Amended by HB 1267, Sec. 1 of the 2011 Reg. Sess. Effective July 1, 2011.

Section 123. Teacher Due Process Act of 1990.

Sections 75 through 85 of this act shall be known and may be cited as the "Teacher Due Process Act of 1990". **(70-6-101.20)**

> Under Oklahoma law, statutory scheme governing employment of public school teachers creates property interests in employment which merit constitutional due process protection. Extra duty assignments, however, are too far removed from primary teaching responsibilities to be protected under state regulatory scheme governing employment of public school teachers. *Lancaster v. Ind. School Dist. No. 5*, 149 F.3d 1228 (10th Cir. 1998)
>
> Under Oklahoma law, tenured teachers have a protected interest only in continued employment, not in a particular position. *Lancaster v. Ind. School Dist. No. 5*, 149 F.3d 1228 (10th Cir. 1998)
>
> Teacher's contracts, which permitted her summary removal as teacher if her supplementary position as coach ceased to suit school district, directly conflicted with stated purpose of the Teacher Due Process Act. Accordingly, purported waiver of the Act's protections was invalid under Oklahoma law. The purpose of the Act is to promote good order and welfare of the state and school system by preventing removal of capable and experienced teachers for reasons arising solely from political or personal whim. *Parker v. Ind. School Dist. No. I-03 of Okmulgee County, Oklahoma*, 82 F.3d 952 (10th Cir. 1996)

Section 124. Standards of Conduct and Performance for Teachers.

A. The State Board of Education shall promulgate standards of performance and conduct for teachers. A copy of such standards, any amendments to such standards and any standards adopted by the board of education of the school district shall be provided by the board of education of each school district to each teacher on or before April 10 of each year.

B. The State Board of Education shall include the statutory grounds for dismissal and nonreemployment of career teachers within this standards document.

C. Standards which may be adopted by the board of education of a school district shall not conflict with state or federal law or standards promulgated by the State Board of Education.

D. In determining whether or not the professional performance of a teacher is adequate, the standards adopted by the State Board of Education shall be considered. Consideration may be given to any written standards of performance which have been adopted by any other education-oriented organization or agency. Professional performance or conduct of a teacher which is in compliance with standards adopted by the State Board of Education or the local board of education pursuant to Section 71 of this act shall not be considered in support of any dismissal or nonreemployment action against the teacher. **(70-6-101.21)**

Section 125. Grounds for Dismissal or Nonreemployment of Teachers. (Version 1)

A. Subject to the provisions of the Teacher Due Process Act of 1990, a career teacher may be dismissed or not reemployed for:

1. Willful neglect of duty;

2. Repeated negligence in performance of duty;

3. Mental or physical abuse to a child;

4. Incompetency;

5. Instructional ineffectiveness;

6. Unsatisfactory teaching performance; or

7. Commission of an act of moral turpitude; or

8. Abandonment of contract.

B. Subject to the provisions of the Teacher Due Process Act of 1990, a probationary teacher may be dismissed or not reemployed for cause.

C. A teacher shall be dismissed or not reemployed, unless a presidential or gubernatorial pardon has been issued, if during the term of employment the teacher is convicted in this state, the United States or another state of:

1. Any sex offense subject to the Sex Offenders Registration Act in this state or subject to another state's or the federal sex offender registration provisions; or

2. Any felony offense.

D. A teacher may be dismissed, refused employment or not reemployed after a finding that such person has engaged in criminal sexual activity or sexual misconduct that has impeded the effectiveness of the individual's performance of school duties. As used in this subsection:

1. "Criminal sexual activity" means the commission of an act as defined in Section 886 of Title 21 of the Oklahoma Statutes, which is the act of sodomy; and

2. "Sexual misconduct" means the soliciting or imposing of criminal sexual activity.

E. As used in this section, "abandonment of contract" means the failure of a teacher to report at the beginning of the contract term or otherwise perform the duties of a contract of employment when the teacher has accepted other employment or is performing work for another employer that prevents the teacher from fulfilling the obligations of the contract of employment. **(70-6-101.22)**

Note: Amended by SB 2033 of the 2nd Session of the 52nd Legislature; effective until 06/30/2012.

Note: See Section 413 – reduction of State Aid as cause for dismissal of teacher under continuing contract law.
See Section 180.14 – failure to meet professional development requirements as cause for nonrenewal.

Trial court did not err in directing reinstatement of a teacher who was dismissed for mental or physical abuse of a child, when teacher admitted to slapping a child. *Hagen v. Ind. School Dist. No. I-04*, 2007 OK 19

Proving instructional ineffectiveness and unsatisfactory teaching performance by a preponderance of the evidence is the standard under the Teacher Due Process Act. At trial de novo, trial judge correctly placed the burden of proof on the school district. The issue at trial is not whether teacher substantially complied with his plan for improvement, but rather whether the teaching was unsatisfactory or ineffective. Furthermore, trial judge substantially complied with the requirement of written findings of fact and conclusions of law by stating basis for ruling into the record, but Court of Civil Appeals was within its authority to remand so that the court would make a journal entry reflecting findings of fact and conclusions of law. *Weston v. Ind. School Dist. No. 35 of Cherokee County, Oklahoma*, 2007 OK 61

Teacher's unexecuted threat to physically assault school superintendent and another teacher, made on school grounds but outside the general purview of students, does not constitute moral turpitude. *Ballard v. ISD No. 4 of Bryan County*, 2003 OK 76, 77 P.3d 1084.

Moral turpitude is conduct contrary to justice, honesty, and good morals. The elements of intent and knowledge are important, and, if the wrong is unintentional, it is not moral turpitude. Falsification of student records and failure to maintain the integrity of student records constituted moral turpitude. *Hill v. ISD No. 25 of Adair County*, 2002 OK CIV APP 97, 57 P.3d 882.

District failed to establish teacher was guilty of moral turpitude as to making of false statements. *Hawzipta v. Independent School Dist. No. 4*, 13 P.3d 98, 2000 OK CIV APP 113.

Repeated tardiness of teacher can amount to Willful Neglect of Duty. *Winslett v. ISD No. 16*, 657 P.2d 1208 (Okla. App. 1982)

Probationary teacher is entitled to be given reasons or findings upon which board of education decided not to reemploy her. *Jackson v. ISD No. 16*, 648 P.2d 26 (Okla. 1982)

Letter stating tenured teacher's contract will not be renewed because of teacher's "system of grading" or "method of teacher" or "partiality to certain students" is not sufficient. *Lovelace v. Ingram*, 518 P.2d 1102 (Okla. 1973)

REDUCTION IN FORCE (RIF):

If a teaching position which is occupied by a career teacher is eliminated pursuant to a reduction in force (RIF) and the career teacher is qualified for another teaching position which is occupied by a nontenured teacher, reasonable

accommodations must be made to give priority for contract renewal to qualified career teachers over nontenured teachers. *Barton v. ISD No. I-99*, 914 P.2d 1041 (Okla. 1996)

The Teacher Due Process Act is not applicable to a reduction in force, and a school district need not comply with the procedures of the Act when implementing a reduction in force. *Patterson v. Board of Education of Francis Tuttle Vocational Technical School District No. 21*, 894 P.2d 433 (Okla. App. 1994)

School board has the implicit authority to nonreemploy teachers when implementing a reduction in force (RIF) plan even though School Code does not specifically address a RIF. However, a RIF plan must conform to the demands of tenure law such that tenured faculty have a claim to preferential status over nontenured faculty in implementation of a RIF plan. *Babb v. ISD No. I-5*, 829 P.2d 973 (Okla. 1992)

"Teacher tenure law" provides that tenured teacher has priority for renewal over nontenured teacher in cases of reduction of force implementation when both teachers are certified to teach the same subject. *Babb v. ISD No. I-5*, 829 P.2d 973 (Okla. 1992)

During a reduction in force implementation, when nontenured teachers were allowed to change classifications in order to be considered for classroom assignment, but tenured teachers were not allowed to change classifications, statutory tenure regime was violated; in effect, tenure-like status was given to nontenured faculty. *Babb v. ISD No. I-5*, 829 P.2d 973 (Okla. 1992)

Nonrenewal of tenured teacher on district's reduction in force does not bring into play statutory appeals procedures. *January 27, 1982 (AG Op. No. 81-288)*

Board of Education can refuse to renew contract of teacher, whether probationary or tenured, when teaching position is to be eliminated. *June 1, 1979 (AG Op. No. 79-151)*

When because of a decrease in number of pupils a teaching position is changed from full time to part time, contract of tenured teacher can be reduced to one-half time and salary reduced accordingly. *June 29, 1976 (AG Op. No. 76-194)*

Elimination of teaching position is proper reason for nonrenewal of tenured teacher's contract. *June 29, 1976 (AG Op. No. 76-194)*

Board of Education can legally refuse to renew contract of tenured teacher because of loss of attendance, or lack of available funds caused by reduction in Federal Funds, or mandatory age policy. *AG Op. May 31, 1973*

Section 125. Grounds for Dismissal or Nonreemployment of Teachers. (Version 2)

A. Subject to the provisions of the Teacher Due Process Act of 1990, a career teacher may be dismissed or not reemployed for:

1. Willful neglect of duty;

2. Repeated negligence in performance of duty;

3. Mental or physical abuse to a child;

4. Incompetency;

5. Instructional ineffectiveness;

6. Unsatisfactory teaching performance;

7. Commission of an act of moral turpitude; or

8. Abandonment of contract.

B. Subject to the provisions of the Teacher Due Process Act of 1990, a probationary teacher may be dismissed or not reemployed for cause.

C. 1. A career teacher who has been rated as "ineffective" as measured pursuant to the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) as set forth in Section 6 of this act for two (2) consecutive school years shall be dismissed or not reemployed on the grounds of instructional ineffectiveness by the school district, subject to the provisions of the Teacher Due Process Act of 1990.

2. A career teacher who has been rated as “needs improvement” or lower pursuant to the TLE for three (3) consecutive school years shall be dismissed or not reemployed on the grounds of instructional ineffectiveness by the school district, subject to the provisions of the Teacher Due Process Act of 1990.

3. A career teacher who has not averaged a rating of at least “effective” as measured pursuant to the TLE over a five-year period shall be dismissed or not reemployed on the grounds of instructional ineffectiveness by the school district, subject to the provisions of the Teacher Due Process Act of 1990.

D. 1. A probationary teacher who has been rated as “ineffective” as measured pursuant to the TLE for two (2) consecutive school years shall be dismissed or not reemployed by the school district subject to the provisions of the Teacher Due Process Act of 1990.

2. A probationary teacher who has not attained career teacher status within a four-year period shall be dismissed or not reemployed by the school district, subject to the provisions of the Teacher Due Process Act of 1990.

E. A teacher shall be dismissed or not reemployed, unless a presidential or gubernatorial pardon has been issued, if during the term of employment the teacher is convicted in this state, the United States or another state of:

1. Any sex offense subject to the Sex Offenders Registration Act in this state or subject to another state's or the federal sex offender registration provisions; or

2. Any felony offense.

F. A teacher may be dismissed, refused employment or not reemployed after a finding that such person has engaged in criminal sexual activity or sexual misconduct that has impeded the effectiveness of the individual's performance of school duties. As used in this subsection:

1. “Criminal sexual activity” means the commission of an act as defined in Section 886 of Title 21 of the Oklahoma Statutes, which is the act of sodomy; and

2. “Sexual misconduct” means the soliciting or imposing of criminal sexual activity.

G. As used in this section, “abandonment of contract” means the failure of a teacher to report at the beginning of the contract term or otherwise perform the duties of a contract of employment when the teacher has accepted other employment or is performing work for another employer that prevents the teacher from fulfilling the obligations of the contract of employment. **(70-6-101.22)**

Note: Amended by SB 2033, Sec. 10 of the 2nd Session of the 52nd Legislature; effective 07/01/2012

Section 126. Teachers Exempted from Dismissal, Suspension and Nonreemployment Provisions.

A. The dismissal, suspension and nonreemployment provisions of the Teacher Due Process Act of 1990 shall not apply to:

1. Substitute teachers;

2. Adult education teachers; and

3. Teachers who are employed on temporary contracts.

B. The dismissal and suspension provisions of the Teacher Due Process Act of 1990 shall apply to teachers who are employed on temporary contracts for a complete school year and to teachers who are employed in positions fully funded by federal or private categorical grants, except that such teachers shall be employed only for the duration of the temporary contract or the grant.

C. The evaluation provisions in Sections 6-101.10 and 6-101.11 of this title and in the Teacher Due Process Act of 1990 shall apply to teachers who are employed on temporary contracts for a complete school year and to teachers who are employed in positions fully funded by federal or private categorical grants, except that such teachers shall be employed only for the duration of the temporary contract or the grant.

D. Teachers other than those specifically excepted in subsection A of this section who are employed on contracts shall be afforded all substantive and procedural rights set forth in the Teacher Due Process Act of 1990 including the dismissal, suspension, and nonreemployment provisions applicable to probationary or career teachers as defined in Section 6-101.3 of this title.

E. On and after the effective date of this act any teacher who has worked a complete school year under a temporary contract in a school district shall be granted a year of service credit toward career status in that district.

F. No teacher shall be hired on a temporary contract by a school district for more than four semesters, except for a:

1. Teacher hired to replace a teacher who is on an approved leave of absence and who is expected to return to employment with the school district; or

2. Teacher who is a retired member of the Teachers' Retirement System of Oklahoma.

G. No teacher shall be offered a temporary contract with a school district without a full written disclosure at the time a position is offered by the administration of the school district which sets forth the terms and conditions of the temporary contract. In the event the school district fails to provide such written disclosure, the teacher shall be considered as employed on a continuing contract basis.

H. On and after the effective date of this act no teacher who is employed on a continuing contract basis by a school district shall be reemployed on a temporary contract in that school district. **(70-6-101.23)**

Although a school district can not place a teacher on a temporary contract for more than four semesters with no break in service, there is no prohibition against multiple temporary contracts with distinct breaks in service even if the total number of semesters exceeds four. *Dehart v. Indep. Sch. Dist. No. 1 of Tulsa County*, 2011 OK CIV APP 68.

There is no requirement that the full written disclosure be in a document separate from the temporary contract itself. *Dehart v. Indep. Sch. Dist. No. 1 of Tulsa County*, 2011 OK CIV APP 68.

A teacher who signs a temporary teacher contract prior to the end of her third consecutive year of teaching is not a "career teacher" at the time of the signing and has no rights to tenure at that time. The teacher does not gain tenure by working a fourth year under a temporary contract. *Scheer v. ISD No. I-26, Afton Public Schools*, 1997 OK 115, 948 P.2d 275.

Temporary contract is one which is for a stated period of time as distinguished from continuing employment contracts. *January 16, 1984 (AG Op. No. 83-253)*

Circumstances under which a temporary contract may be used is within discretion of boards of education. *January 16, 1984 (AG Op. No. 83-253)*

When tenured teacher is not reemployed due to loss of federal funding, school board is not required to employ teacher in a position which subsequently becomes available. *September 2, 1980 (AG Op. No. 80-197)*

Statutory dismissal, suspension and nonreemployment procedures do not apply to teachers or counselors in Skills Centers or Inmate Training Centers operated by State Department of Vocational and Technical Education. *January 17, 1980 (AG Op. No. 79-351)*

Section 127. Procedures for Administrator to Follow for Admonishment of Teacher. (Version 1)

A. When an administrator who has the responsibility of evaluating a teacher identifies poor performance or conduct that the administrator believes may lead to a recommendation for the teacher's dismissal or nonreemployment, the administrator shall:

1. Admonish the teacher, in writing, and make a reasonable effort to assist the teacher in correcting the poor performance or conduct; and

2. Establish a reasonable time for improvement, not to exceed two (2) months, taking into consideration the nature and gravity of the teacher's performance or conduct.

B. If the teacher does not correct the poor performance or conduct cited in the admonition within the time specified, the administrator shall make a recommendation to the superintendent of the school district for the dismissal or nonreemployment of the teacher.

C. Whenever a member of the board of education, superintendent, or other administrator identifies poor performance or conduct that may lead to a recommendation for dismissal or nonreemployment of a teacher within the district, the administrator who has responsibility for evaluation of the teacher shall be informed, and that administrator shall comply with the procedures set forth in this section. If the administrator fails or refuses to admonish the teacher within ten (10) day after being so informed by the board, superintendent, or other administrator, such board, superintendent or other administrator shall admonish the teacher pursuant to the provisions of this section.

D. Repeated negligence in performance of duty, willful neglect of duty, incompetency, instructional ineffectiveness or unsatisfactory teaching performance, for a career teacher, or any cause related to inadequate teaching performance for a probationary teacher, shall not be a basis for a recommendation to dismiss or not reemploy a teacher unless and until the provisions of this section have been complied with. **(70-6-101.24)**

Note: Amended by SB 2033 of the 2nd Session of the 52nd Legislature; effective until 06/30/2012.

Admonishment statute merely requires that the administrator admonish the teacher in writing. It does not dictate how specific the admonishment must be. Mere technical violations do not necessarily result in a denial of due process. *Fields v. ISD No. 1 of Tulsa County*, 2002 OK CIV APP 109, 84 P.3d 779.

Career teacher is not entitled to an admonishment and reasonable time for improvement when teacher committed acts demonstrating moral turpitude. Teacher, whether probationary or career, whose dismissal is based on specific irremediable instances of misconduct is not entitled to admonishment. *Hill v. ISD No. 25 of Adair County*, 2002 OK CIV APP 97, 57 P.3d 882.

Admonishment and plan of improvement is not required prior to termination of probationary teacher for misconduct unrelated to teaching performance. *Harjo v. Board of Education of ISD No. 7*, 1999 OK CIV APP 35, 976 P.2d 1096.

Statutory requirement that plan of improvement contain a specific time for improvement is a mere technical requirement and failure to comply will not invalidate action to dismiss, particularly where there is no prejudice to teacher. *House v. ISD I-29 of Muskogee County,* 939 P. 2d 1127 (Okla. 1997).

Section 127. Procedures for Administrator to Follow for Admonishment of Teacher. (Version 2)

A. When a teacher receives a rating as measured pursuant to the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) as set forth in Section 6 of this act that may lead to a recommendation for the dismissal or nonreemployment of the teacher or when an administrator identifies poor performance or conduct that the administrator believes may lead to a recommendation for the dismissal or nonreemployment of the teacher, the administrator shall:

1. Admonish the teacher, in writing, and make a reasonable effort to assist the teacher in correcting the poor performance or conduct; and

2. Establish a reasonable time for improvement, not to exceed two (2) months, taking into consideration the rating on the evaluation or the nature and gravity of the performance or conduct.

B. If the teacher does not correct the poor performance or conduct cited in the admonition within the time specified, the administrator shall make a recommendation to the superintendent of the school district for the dismissal or nonreemployment of the teacher.

C. Whenever a member of the board of education, superintendent, or other administrator identifies poor performance or conduct that may lead to a recommendation for dismissal or nonreemployment of a teacher within the district, the

administrator who has responsibility for evaluation of the teacher shall be informed, and that administrator shall comply with the procedures set forth in this section. If the administrator fails or refuses to admonish the teacher within ten (10) days after being so informed by the board, superintendent, or other administrator, such board, superintendent or other administrator shall admonish the teacher pursuant to the provisions of this section.

D. Repeated negligence in performance of duty, willful neglect of duty, incompetency, instructional ineffectiveness or unsatisfactory teaching performance, for a career teacher, or any cause related to inadequate teaching performance for a probationary teacher, shall not be a basis for a recommendation to dismiss or not reemploy a teacher unless and until the provisions of this section have been complied with. **(70-6-101.24)**

Note: Amended by SB 2033, Sec. 11 of the 2nd Session of the 52nd Legislature; effective July 1, 2012

Section 128. Recommendation of Dismissal or Nonrenewal.

Whenever a superintendent decides to recommend that a teacher employed within the school district be dismissed or not reemployed, the superintendent shall state the recommendation in writing, setting forth the basis for the recommendation, and shall submit such recommendation to the board of education.

If the teacher subject to such recommendation is a career teacher, the recommendation shall specify the statutory grounds for which the recommendation is based.

If the teacher subject to such recommendation is a probationary teacher, the recommendation shall specify the cause for which the recommendation is based.

The superintendent shall also specify the underlying facts supporting the recommendation. **(70-6-101.25)**

Section 129. Procedure for Dismissal or Nonreemployment - Hearing and Appeal Rights.

A. Whenever a board of education receives a recommendation from the superintendent for the dismissal or nonreemployment of a teacher, the board or individual designated by the board shall mail a copy of the recommendation to the teacher by certified mail, restricted delivery, return receipt requested, by personal delivery to the teacher with a signed acknowledgement of receipt, or by delivery by a process server. By the same means, the board shall notify the teacher of the right to a hearing before the board and the date, time and place set by the board for the hearing, which shall be held within the school district not sooner than twenty (20) days or later than sixty (60) days after receipt of notice by the teacher, the date on the personal receipt by hand-delivery to the teacher, or the date of delivery by a process server. The notice shall specify the statutory grounds upon which the recommendation is based upon for a career teacher or shall specify the cause upon which the recommendation is based upon for a probationary teacher. The notice shall also specify the underlying facts supporting the recommendation. At the hearing, the teacher shall be entitled to all rights guaranteed under the circumstances by the United States Constitution and the Constitution of Oklahoma.

B. The teacher hearing shall be conducted by the district board according to procedures established by the State Board of Education.

C. Only after due consideration of the evidence and testimony presented at the hearing shall the district board decide whether to dismiss or nonreemploy the teacher. The vote of the board shall be made in an open meeting. The board shall also notify the teacher of the decision, including the basis for the decision, by certified mail, restricted delivery, return receipt requested, or substitute process as provided by law. The decision of the board regarding a probationary teacher shall be final and nonappealable. At the hearing the burden of proof shall be upon the superintendent or designee, and the standard of proof shall be by the preponderance of the evidence. The teacher shall receive any compensation or benefits to which the teacher is otherwise entitled until the decision of the board becomes final. If the hearing for a teacher is for nonreemployment, such compensation and benefits may be continued only until the end of the current contract of the teacher. **(70 -6-101.26)**

Note: Amended by HB 1380, Sec. 3 & Sec. 4 of the 2011 Reg. Sess. effective 08/26/2011.

Notice given to teacher which set forth grounds for dismissal was sufficient when, within 10 days thereafter, teacher received reports which set forth specific instances of alleged wrongdoing. Teacher did not allege any prejudice from delay in receiving details of alleged wrongdoing. *Hill v. ISD No. 25 of Adair County*, 2002 OK CIV APP 97, 57 P.3d 882

When teacher failed to obtain necessary certification for continuing in position, contract of employment was extinguished by operation of law, and school district did not have to comply with notice and hearing requirements of Teacher Due Process Act. *Guthrie v. ISD No. 30 of Adair County, Cave Springs Public Schools*, 1998 OK CIV APP 47, 958 P.2d 802

Probationary teacher is entitled to be given reasons or findings upon which board of education decided not to reemploy her. *Jackson v. ISD No. 16*, 648 P.2d 26 (Okla. 1982)

Tenured teacher reinstated by hearing panel to teaching position not entitled to reinstatement of his coaching duties. *Maupin v. ISD No. 26*, 632 P.2d 396 (Okla. 1981)

Notwithstanding statutory provisions that decision of a board of education to dismiss a teacher for wilful neglect of duty shall be final, teacher can still maintain court action for breach of contract on ground dismissal was arbitrary and founded on no evidence of such neglect. *Scherich v. ISD No. 42*, 591 P.2d 1270 (Okla. App. 1979)

Section 130. Repealed.

Note: Repealed by HB 1380, Sec. 6 & 7 of the 2011 Reg. Sess. effective 08/26/2011,

Section 131. Applicable Procedure.

The applicable procedure in the event of a recommendation by the superintendent for the dismissal or nonreemployment of a teacher shall be that procedure provided by law on the date such dismissal or nonreemployment is recommended to the local board of education. **(70-6-101.28)**

Section 132. Suspension of Teacher.

Whenever the superintendent of a school district has reason to believe that cause exists for the dismissal of a teacher and is of the opinion that the immediate suspension of the teacher would be in the best interests of the children in the district, the superintendent or the local board of education upon receiving recommendation for suspension from the superintendent may suspend the teacher without notice or hearing. However, the suspension shall not deprive the teacher of any compensation or other benefits to which otherwise entitled. Within ten (10) days' time after the suspension becomes effective, the local board of education shall initiate a hearing for dismissal pursuant to law.

However, in a case involving a criminal charge or indictment, the suspension may extend until the case for the teacher is finally adjudicated at trial. The extension shall not include any appeal process. **(70-6-101.29)**

Note: Amended by HB 1380, Sec. 5 of the 2011 Reg. Sess. effective 08/26/2011.

Section 133. Years of Credit for Teachers in Districts That are Annexed or Consolidated.

A. If a school district is annexed, either voluntarily or involuntarily, by another school district, the annexing district shall give teachers credit for all purposes for years of service performed in the annexed district as though said years of service were actually performed in the annexing district.

B. In the event school districts are consolidated, the consolidated school district shall give teachers credit for all purposes for years of service in the school districts which are consolidated as though said years of service were actually performed in the consolidated school district. **(70-6-101.30)**

Section 134. Support Employees - Disciplinary Action.

A support employee who has been employed by a local board of education for more than one (1) year shall be subject to suspension, demotion, termination or nonreemployment only for cause, as designated by the policy of the local board of education, adopted as provided in Section 6-101.43 of this title. This section shall not be construed to prevent layoffs for lack of funds or work. For purposes of this act, “support employee” means a full-time employee of a school district

as determined by the standard period of labor which is customarily understood to constitute full-time employment for the type of services performed by the employee who is employed a minimum of one hundred seventy-two (172) days and who provides those services, not performed by professional educators or licensed teachers, which are necessary for the efficient and satisfactory functioning of a school district and shall not include adult education instructors or adult coordinators employed by technology center school districts. **(70-6-101.40)**

> "Lack of funds" does not require that school district be bankrupt but exists when insufficient revenue is available to meet all financial demands including reserves. *Isch v. Oklahoma ISD No. I-89*, 1998 OK CIV APP 90, 963 P.2d 18.
>
> The term "full-time employee" as used in this Section refers to an employee who renders services based upon standard period of labor customarily understood to constitute full-time employment for type of services rendered to a school district. *October 6, 1981 (AG Op. No. 81-217)*

Section 135. School Support Employees - Conviction of Felony - Criminal Sexual Activity or Sexual Misconduct.

A. A school support employee as defined in Section 6-101.40 of this title shall be dismissed or not reemployed, unless a presidential or gubernatorial pardon has been issued, if during the term of employment such employee is convicted in this state, the United States or another state of:

1. Any sex offense subject to the Sex Offenders Registration Act in this state or subject to another state's or the federal sex offender registration provisions; or

2. Any felony offense.

B. A school support employee may be dismissed, refused employment or not reemployed after a finding that such person has engaged in criminal sexual activity or sexual misconduct that has impeded the effectiveness of the individual's performance of school duties. As used in this subsection:

1. "Criminal sexual activity" means the commission of an act as defined in Section 886 of Title 21 of the Oklahoma Statutes, which is the act of sodomy; and

2. "Sexual misconduct" means the soliciting or imposing of criminal sexual activity. **(70-6-101.41)**

Section 136. Disciplinary Policy - Statement.

Each local board of education shall adopt a policy statement defining the causes and procedures for suspension, demotion, termination or nonreemployment of support personnel. Upon adoption of such policy, a copy thereof shall be furnished to each support employee. **(70-6-101.43)**

Section 137. Policy Prerequisite to Disciplinary Action.

Beginning January 1, 1982, no suspension, demotion or termination of a support employee shall be effective or enforceable unless the local school board has adopted a policy as provided in Section 2 of this act. **(70-6-101.44)**

Section 138. Support Employees - Notification Concerning Employment.

A. A school district, no later than ten (10) days after the effective date of the education appropriation bill or June 1, whichever is later, shall give reasonable assurance of employment in writing to any support employee that the school intends to employ for the subsequent school year.

B. This section shall not be construed to nullify the provisions of Sections 24-133 through 24-137 of this title or be construed to deprive any employee that the district is considering not employing for the subsequent year of any rights provided in such sections. **(70-6-101.45)**

Section 139. Right to Hearing.

A. After any suspension or prior to any demotion, termination or nonreemployment, a support employee shall receive notice of the right to a hearing. The hearing shall be conducted by the local board of education. All notices shall be by certified mail, with the postmark used to determine the timeliness of the notice. Failure of the employee to request a hearing within ten (10) working days of such notice shall be considered a waiver of the employee's right to a hearing.

B. Nonreemployment shall mean nonrenewal of a support employee's contract upon expiration of the contract.

C. If an employee is to be suspended for a period to exceed ten (10) days, the superintendent of the district shall initiate proceedings for termination and shall follow the procedures set forth in subsection A of this section. However, in a case involving a criminal charge or indictment, the suspension may be delayed until the employee's case is adjudicated at the trial. Nothing in this act shall prevent the school board from proceeding against the employee during or after the suspension for termination as provided in this act. **(70-6-101.46)**

Section 140. Time for Hearing - Board's Decision Final.

If the employee selects a hearing before the local board of education, the hearing shall be conducted at the next, or next succeeding, regularly scheduled meeting if the request for the hearing was received by the local board of education at least ten (10) days prior to the next, or next succeeding, regularly scheduled meeting. Provided, however, at the request of the employee or at the discretion of the local board of education, the local board shall call a special meeting to conduct the requested hearing, which shall be held no sooner than ten (10) days nor later than thirty (30) days after receipt of the employee's request. The decision of the local board of education at the hearing shall be final. **(70-6-101.47)**

There is no requirement that support employees be provided "de novo" review procedures as are provided to career teachers. *Isch v. Oklahoma ISD No. I-89*, 1998 OK CIV APP 90, 963 P.2d 18.

Section 140.1. Contractors Prohibited from Allowing Sex Offenders to Work on School Premises.

A. No person or business having a contract with a school or school district to perform work on a full-time or part-time basis that would otherwise be performed by school district employees shall allow any employee to work on school premises if the employee is convicted in this state, the United States or another state of any felony offense unless ten (10) years has elapsed since the date of the criminal conviction or the employee has received a presidential or gubernatorial pardon for the criminal offense.

B. Every person or business performing services not subject to subsection A of this section on the property of a school or school district shall at the time of contracting be required to sign a statement declaring that no employee working on school premises under the authority of the business is currently registered or required to register under the provisions of the Oklahoma Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act. Compliance with this statute shall be required of the person or private business, and there shall be no obligation placed upon a school district to ascertain the truthfulness of the affidavit.

C. A person or business having a written contract with a school or school district to perform work on a full-time or part-time basis that would otherwise be performed by school district employees may conduct a felony search of the employees of the person or entity who would be assigned that work through a request to the State Board of Education in the same manner as a felony search is afforded school districts by Section 5-142 of this title. **(70-6-101.48)**

Note: See also 1042.1

Section 141. Sick Leave - Emergency Leave - Personal Business Leave - Jury Service.

A. The board of education of each school district in the state shall provide for sick leave for all teachers employed in the district and shall pay such teachers the full amount of their contract salaries during any absence from their regular school duties for a period of time and under such conditions as the board may determine, but not less than the minimum benefits hereafter specified. Payment for sick leave shall be made on the basis of the current salary rate then in effect for the teacher receiving the payment. The plan shall provide that a teacher may be absent from his or her duties due to

personal accidental injury, illness or pregnancy, or accidental injury or illness in the immediate family without the loss of salary for not to exceed ten (10) days during each school year, except that said absence without loss of salary for teachers employed on an eleven-month contract shall not exceed eleven (11) days during each school year and for those teachers employed on a twelve-month contract shall not exceed twelve (12) days during each school year, if said contract is for the work period, and not merely for pay purposes. The right to such leave shall vest at the beginning of the school year. Each school district shall provide for all teachers a minimum of three (3) days for personal business leave, upon the request of the teacher. Salary deductions for such leave shall not exceed the salary level for substitute teachers. Provided further, that these terms for personal business leave shall not negate any locally negotiated leave policies which exceed the minimum benefits stated above. Each school district may provide not more than five (5) days each year for emergency leave. Each school district will determine the purposes for which emergency leave can be used. Those days shall not be chargeable to sick leave and will be noncumulative. Unused sick leave shall be cumulative up to a total of sixty (60) days, and cumulative sick leave shall be transferable to another school district where the teacher is employed the next succeeding school year, provided that the number of days transferred shall not exceed the maximum days permitted by the receiving district and that such transferred days shall be used first in case of illness and, provided further, that if the receiving district pays teacher for unused sick leave upon retirement or termination of contract, then said payments shall be for only those days accumulated in the receiving district. The school board of the sending district shall certify the exact number of days eligible for transfer.

B. The plan of each school district for sick leave benefits may include other terms and conditions, but shall not provide less sick leave benefits than those prescribed herein. Hospital and medical proceeds may not be charged against sick leave benefits, but the proceeds received by the teacher from any insurance provided by the district for loss of compensable time may be charged against sick leave benefits. Provided the board of education may provide all or part of hospital and medical benefits, and sickness, accident, health and life insurance or any of the aforesaid for any or all of its employees. On authorization of the teacher, the district may approve payroll deductions for such teacher's portion of the aforesaid.

C. Each school district shall grant a teacher leave for jury service or as a witness subpoenaed in a criminal, civil or juvenile proceeding and shall pay the teacher during such service the full, current contract salary. Provided that the district may deduct any compensation received for serving as a juror or witness from the teacher's salary during such service.

D. A school district shall also provide for benefits for personnel other than teachers. Benefits for support personnel employees shall include provisions for paid sick leave of at least one (1) day per month of employment not to exceed the number of hours per day for which they are regularly employed cumulative to a total of sixty (60) days and cumulative sick leave shall be transferable to another school district where the person is employed the next succeeding school year; provided, that the number of days transferred shall not exceed the maximum days permitted by the receiving district and that such transferred days shall be used first in case of illness up to a maximum of ten (10) transferred days per school year unless the local board of education authorizes the use of additional transferred days during the school year in an amount set by the board and, provided further, that if the receiving district pays such person for unused sick leave upon retirement or termination of employment, then said payments shall be for only those days accumulated in the receiving district. The school board of the sending district shall certify the exact number of days eligible for transfer. Each school district shall provide for all support employees, a minimum of three (3) days for personal business leave, upon the request of the support employee. Salary deductions for personal business leave shall not exceed an amount necessary to cover the costs of services provided to the district by the support employee and shall not exceed the salary of the support employee. The terms for personal business leave provided by this subsection shall not negate any locally negotiated leave policies which exceed the minimum benefits stated above. Payment for such leave shall be calculated with regard to the definition of "support employee" provided by Section 6-101.40 of this title. Provided that such benefits shall not exceed those authorized for teachers hereunder. **(70-6-104)**

Note: See Section 730 herein as to continued payment of contract salary to school personnel injured in performance of duties.

School districts may not pay teachers for accrued but unused sick leave at the end of the school year, unless such occasion also marks the end of the employment relationship with a particular teacher. *March 27, 1992 (AG Inf. Op. No. 91-632)*

If the teacher is on personal business leave, an amount necessary to pay a substitute teacher may be deducted from the teacher's salary. *April 10, 1991 (AG Inf. Op. No. 90-670)*

Board may not deduct more from teacher's salary than amount necessary to pay substitute unless it has regulations which specify types of leave for which it will deduct a day's pay. *November 27, 1987 (AG Op. No. 87-80)*

Whether teacher can take personal business leave to engage in practice of law must be determined under local district's regulations governing personal business leave. *November 27, 1987 (AG Op. No. 87-80)*

District's locally negotiated personal business leave policy providing for only two days with no salary deduction is invalid. *May 18, 1983 (AG Op. No. 83-51)*

Sick leave bank plan for teachers can be negotiated. *May 18, 1983 (AG Op. No. 83-33)*

Exact calendar date when school begins is question to be determined by board of education, but "school year" does not begin prior to commencement of instruction. *July 27, 1982 (AG Op. No. 82-159)*

Teacher with accumulated sixty (60) days of sick leave prior to commencement of school year earns additional ten (10) days when new school year begins but unused sick leave in excess of sixty (60) days is lost at end of year. *March 2, 1981 (AG Op. No. 81-33)*

If accumulated sick leave has been paid for by sending district, days for which teacher was paid cannot be transferred to another school district. *January 15, 1981 (AG Op. No. 80-300)*

Accumulated sick leave up to sixty (60) days must be transferred when teacher leaves employment in one school district and secures employment in another district. *August 20, 1980 (AG Op. No. 80-179)*

In absence of agreement, number of days allowed for "personal business"leave is discretionary with board of education. *December 9, 1980 (AG Op. No. 80-247)*

District must provide for benefits for personnel other than teachers, including cumulative sick leave, but is not required to provide same benefit plans as required by law for teachers. *February 20, 1980 (AG Op. No. 80-14)*

School district employee cannot miss work to further employee negotiations without loss of pay. *June 20, 1979 (AG Op. No. 79-176)*

Automobile, homeowners or personal property insurance may not be offered to an employee in lieu of sickness, accident, health and life insurance or other hospital and medical benefits afforded to employees of the district; and additional wages cannot be paid to employees in lieu of providing other authorized benefits where employee does not elect to participate in the benefits program. *June 7, 1979 (AG Op. No. 79-153)*

Board of education has authority to determine for what purposes "personal business" leave can be used. *August 19, 1977 (AG Op. No. 77-217)*

Negotiations agreement may provide for more than sixty (60) days accumulated sick leave but cannot provide for less than sixty (60) days. *September 9, 1977 (AG Op. No. 77-216)*

Absence of teacher, due to illness, from preschool orientation or inservice training may be charged to accumulated leave. *AG Op. January 16, 1976*

Absence of teacher, due to illness, from professional meeting within 5-day period allowed for attendance of professional meetings may be charged to accumulated leave. *AG. Op. January 16, 1976*

Board of Education may, but is not required to give teacher emergency leave to be used for personal business. *AG Op. May 1, 1972.*

Board of education must provide minimum total of ten (10) days sick leave for combination of absence due to personal illness and illness in immediate family. *AG Op. October 22, 1971*

Sixty (60) days cumulative leave is mandatory and there is no distinction between unused sick leave for personal illness and illness in immediate family. *AG Op. October 22, 1971*

Allowance for emergency leave is not chargeable to sick leave. *AG Op. October 22, 1971*

Board of Education determines purposes for which emergency leave may be taken. *AG Op. October 27, 1971*

Sick leave plan must be in writing, show date of approval by board of education, and be made available to all teachers. *AG Op. November 15, 1968*

Salary deductions after sick benefits exhausted should be on 180 day basis. *AG Op. November 15, 1968*

It is mandatory that a board of education provide no less than ten (10) days sick leave per annum to a teacher; and that such leave be cumulative up to a total of sixty (60) days. *AG Op. October 28, 1966*

Section 141.1. Leave Without Pay - Experience Credit - Retirement.

After exhausting sick leave and extended leave pursuant to Sections 6-104 and 6-104.5 of Title 70 of the Oklahoma Statutes, a full-time teacher who, with the proper approval of the district board of education, takes not more than ninety (90) school days of leave without pay to care for the teacher's child during the first year of the child's life, shall receive full credit for the days on leave without pay as though the teacher had been on leave with pay for purposes of computing experience for the minimum teacher salary schedule. A teacher on leave without pay pursuant to this section who pays the actuarial cost, as determined by the Board of Trustees of the Teacher's Retirement System, shall have the period during which such leave without pay is taken, counted toward retirement service credit as though the teacher had been on leave with pay. The teacher shall notify their employer and the System in writing within thirty (30) days from the date he or she returns to service that they will pay such actuarial cost. The teacher shall have up to twelve (12) months from the date he or she returns to service to pay such actuarial cost. **(70-6-104.1)**

Section 142. Salary Payment After Leave Exhausted - Payment for Unused Leave Upon Termination of Employment.

A. If, after exhausting all sick leave, a teacher is absent from his or her duties due to personal accidental injury, illness or pregnancy, the teacher shall receive for a period of not to exceed twenty (20) days his or her full contract salary less the amount:

1. actually paid a certified substitute teacher for his or her position if a certified substitute teacher is hired; or

2. normally paid a certified substitute teacher for his or her position if a certified substitute teacher is not hired.

B. The district's plan may provide that the teacher is entitled to payment for accrued but unused sick leave upon termination of employment. **(70-6-104.5)**

Sick leave plan can permit calculation of deductions from teacher's salary on basis of actual employment contract period, so long as contract period does not exceed 190 days. *June 28, 1977 (AG Op. No. 77-186)*

Section 143. Sick Leave Sharing Programs.

A. The board of education of each school district may establish a leave sharing program for all district employees. The program shall permit district employees to donate sick leave to a fellow district employee who is pregnant or recovering from or who is suffering from or has a relative or household member suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition which has caused or is likely to cause the employee to take leave without pay or to terminate employment.

B. As used in this section:

1. "Relative of the employee" means a spouse, child, stepchild, grandchild, grandparent, stepparent, or parent of the employee;

2. "Household members" means those persons who reside in the same home, who have reciprocal duties to and do provide financial support for one another. This term shall include foster children and legal wards even if they do not live in the household. The term does not include persons sharing the same general house, when the living style is primarily that of a dormitory or commune;

3. "Severe" or "extraordinary" means serious, extreme or life-threatening including temporary disability resulting from pregnancy, miscarriage, childbirth and recovery therefrom; and

4. "District employee" means a teacher or any full-time employee of the school district.

C. A district employee may be eligible to receive shared leave pursuant to the following conditions:

1. The board of education determines that the employee meets the criteria described in this section; and

2. The employee has abided by district policies regarding the use of sick leave.

D. A district employee may donate annual leave to another district employee only pursuant to the following conditions:

1. The receiving employee has exhausted, or will exhaust, only sick leave earned pursuant to Section 6-104 of this title due to pregnancy, miscarriage, childbirth and recovery therefrom, an illness, injury, impairment, or physical or mental condition, which is of an extraordinary or severe nature, and involves the employee, a relative of the employee or household member;

2. The condition has caused, or is likely to cause, the employee to go on leave without pay or to terminate employment;

3. The board of education of the district permits the leave to be shared with an eligible employee;

4. The amount of leave to be donated is within the limits set by the board of education of the district; and

5. District employees may not donate excess sick leave that the donor would not be able to otherwise take.

E. The board of education of each school district shall determine the amount of donated leave an employee may receive.

F. The board of education shall require the employee to submit, prior to approval or disapproval, a medical certificate from a licensed physician or health care practitioner verifying the severe or extraordinary nature and expected duration of the condition.

G. Donated sick leave is transferable between employees of different school districts in the state with the agreement of both boards of education of each school district.

H. The receiving employee shall be paid the regular rate of pay of the employee. The sick leave received will be designated as shared sick leave and be maintained separately from all other sick leave balances.

I. Any donated sick leave may only be used by the recipient for the purposes specified in this section.

J. Only sick leave earned pursuant to Section 6-104 of this title available for use by the recipient must be used prior to using shared sick leave.

K. Any shared sick leave not used by the recipient during each occurrence as determined by the board of education shall be returned to the donor. The shared sick leave remaining will be divided among the donors on a prorated basis based on the original donated value and returned at its original donor value and reinstated to the annual leave balance of each donor.

L. All donated sick leave must be given voluntarily. No employee shall be coerced, threatened, intimidated, or financially induced into donating sick leave for purposes of the leave sharing program.

M. In addition to the sick leave sharing program provided for in this section, the board of education of each school district may establish a sick leave sharing bank for all district employees. A district employee may donate sick leave to a common fund which may be used by any district employee who is eligible to receive shared leave as set forth in subsection A of this section. The terms and conditions for donation and use of sick leave to a leave sharing bank shall be subject to the provisions of this section, unless negotiations, entered into pursuant to Section 509.1 et seq. of this title, between district employees and the school district establish terms and conditions for a sick leave sharing bank in excess of those provided for in this section. **(70-6-104.6)**

Section 143.1. Leave Related to National Disaster.

A. The board of education of each school district may grant leave with pay not to exceed fifteen (15) working days to a district employee who is affected by a presidentially declared national disaster in Oklahoma after May 1, 1999, if:

1. The employee suffered a physical injury as a result of the disaster;

2. A relative or household member of the employee suffered a physical injury or died as a result of the disaster; or

3. The domicile of the employee or the domicile of a relative of the employee was damaged or destroyed as a result of the disaster.

B. As used in this section:

1. "Relative of the employee" shall be limited to the spouse, child, stepchild, grandchild, grandparent, stepparent, or parent of the employee; and

2. "Household members" means those persons who reside in the same home, who have reciprocal duties to and do provide financial support for one another. This term shall include foster children and legal wards even if they do not live in the household. The term does not include persons sharing the same general house, when the living style is primarily that of a dormitory or commune.

C. The authority to grant leave with pay pursuant to subsection A of this section shall extend for a period of not more than six (6) months after the date of a presidentially declared national disaster.

D. Annual leave, sick leave, or compensatory time which was charged to a school district employee as a result of the presidentially declared national disaster resulting from the May 3, 1999, tornadoes that would have otherwise been eligible for the leave provision in subsection A of this section, may be reinstated by the governing body. A school district employee entitled to leave with pay pursuant to this section who was charged leave without pay shall be compensated at the base rate of pay of the employee.

E. A district board of education may amend an existing leave sharing program or establish a leave sharing program to allow district employees to share sick or annual leave with district employees who are eligible for leave pursuant to subsection A of this section. The disaster-related leave sharing plan shall be subject to the following conditions:

1. An employee eligible for disaster-related leave may receive up to fifteen (15) days donated leave;

2. The donated leave must be used for disaster-related injuries or matters;

3. The eligible employee shall not be required to take or exhaust any of the employee's regular sick, personal, or emergency leave in order to receive donated leave;

4. Donated leave may be used to reinstate regular emergency, sick, or personal leave an employee used after May 1, 1999, for disaster-related injuries or matters;

5. An eligible employee who was required to take leave without pay for disaster-related injuries or matters may be compensated for up to fifteen (15) days if leave is donated to cover the leave without pay; and

6. The district may require documentation to support a request to use donated leave pursuant to this section. **(70-6-104.7)**

Section 144. Substitute Teachers - Military Leave for Teachers.

A. If, because of sickness or other reason, a teacher is temporarily unable to perform regular duties, a substitute teacher may be employed for the position for the time of the absence. A substitute teacher shall be paid in an amount and under such terms as may be agreed upon in advance by the substitute teacher and the board of education or according to regulations of the board. If a teacher is absent for reason of personal business the school district shall deduct from the salary of the teacher only the amount necessary to pay the substitute.

B. No substitute teacher shall be employed for a total period of time in excess of ninety (90) school days during a school year; or one hundred (100) school days during the school year if the substitute teacher holds a lapsed or expired certificate or has a bachelors level college degree; or no limit of school days during the school year if the substitute teacher holds a valid certificate. Except as provided in this section, a substitute teacher may not be employed for the

same assignment for more than twenty (20) school days during a school year unless the substitute teacher holds a valid certificate.

C. Substitute teachers who do not hold a valid certificate and who are employed to teach special education for students with physical disabilities or students with mental retardation shall not be subject to the restrictions on total time a substitute teacher may be employed or the restrictions on time in the same assignment if no certified teachers are available to teach such students and the students would be denied instruction in special education if the substitute teacher were not employed. Beginning with the 2007-08 school year, any substitute teacher employed to teach special education for the same assignment for more than fifteen (15) consecutive or thirty (30) total school days during a school year who does not hold a valid certificate to teach special education shall be required to complete in-service training as prescribed by the State Board of Education. The training shall be provided at no cost to the substitute teacher. Availability of certified teachers shall be determined after the school has consulted the State Board of Education and any other resources for filling the vacant position with a certified teacher.

D. A school district may request a waiver of the restrictions on total time a substitute teacher may be employed or the restrictions on time in the same assignment from the State Board of Education for a substitute teacher who does not hold a valid certificate. The school district shall submit evidence on the availability of certified substitute teachers and the qualifications of the substitute teacher. The Board shall develop procedures for the filing and processing of substitute teacher waivers pursuant to this subsection.

E. Payment of salary to a substitute shall have no effect on the amount of salary to which the absent regular teacher is entitled under the applicable leave plan.

F. Any substitute or cadet teacher employed in any school system on a monthly or annual basis shall hold a certificate and have a written contract in the manner and under the same conditions as for regular teachers.

G. Teachers who are members of the Reserve Forces of the Army, the Navy, the Marine Corps, the Coast Guard, the Air Force, or any other component of the Armed Forces of the United States, including members of the Air or Army National Guard, shall, when ordered by the proper authority to active duty or service, be entitled to a leave of absence from such civil employment for the period of such active service without loss of status or efficiency rating and without loss of pay during the first thirty (30) days of such leave of absence.

H. School districts in this state may contract with outside providers for the training and employment of substitute teachers. The State Board of Education shall promulgate guidelines to assist school districts in the sanctioning and approval of an outside provider in accordance with this section. **(70-6-105)**

Amount paid substitute teacher is maximum deductible from teacher's salary for absence due to personal business in excess of number of days allotted. *December 9, 1980 (AG Op. No. 80-247)*

School district need not enter into a written contract with substitute teacher who teaches in excess of 35 days in a school year unless employed on monthly or annual basis. *June 16, 1980 (AG Op. No. 80-112)*

Compensation for substitute teacher is matter of agreement unless substitute is employed on monthly or annual basis then compensation must be the same as for regular teachers. *June 16, 1980 (AG Op. No. 80-112)*

Section 145. Existing Agreements for Leave Benefits.

Nothing in this act shall be construed to annul, modify or to preclude the renewal or continuation of any existing agreement heretofore entered into between any school district and any organizational representative of its employees. **(70-6-105A)**

Section 146. Salary - Twelve Monthly Payments.

Boards of education are hereby authorized to contract with and pay all teachers in their respective districts in twelve (12) monthly payments or fractional parts of the fiscal year, to be made on the basis of legal contracts between said board and teachers. Procedures for paying teachers shall be in accordance with any plan approved by the State Department of Education.

The aggregate amount of such salary payments in any fiscal year shall be as agreed upon by the board and the teacher. Under the terms of a contract for a ten-month school year as defined in Section 1-109 of this title and made in keeping with the provisions of this section, no duties shall be expected or required of the teacher in excess of one hundred ninety (190) days; provided, nothing herein shall be construed as prohibiting the making of contracts for school years of more than ten (10) months. Any district adopting this plan of payment may make it applicable to any or all teachers employed therein. Such plan shall be permissive rather than mandatory and may be discontinued at the close of any fiscal year.

All salaries paid in twelve (12) installments pursuant to the provisions of this section shall be for calendar months or fractional parts thereof. **(70-6-106)**

> Tenured teacher cannot be paid at beginning of month for services yet to be performed during the month. *July 24, 1984 (AG Op. No. 84-87)*
>
> District can contract with vocational-technical teacher to perform duties for the duration of the vocational-technical program which may extend beyond 190 days. *April 13, 1984 (AG Op. No. 83-247)*
>
> Teacher not employed on full time basis, with compensation payable in 12 monthly payments, is not entitled to first monthly payment until after end of first teaching month of school year. *AG Op. June 22, 1961*

Section 146.1. Teacher Consultant Stipend Funding.

If funds are appropriated to the State Board of Education for Mentor Teacher Stipends, the funds shall be distributed by the Board to the school districts to provide a stipend of not more than Five Hundred Dollars ($500.00) for each mentor teacher as defined in Section 6-182 of this title. In addition to the distribution of the five-hundred-dollar stipend, each district shall also receive the district's contribution amount necessary to meet the Federal Insurance Contributions Act (F.I.C.A.) requirements. **(70-6-106.1)**

Section 146.2. Direct Deposit.

A. As used in this section:

1. "Direct deposit system" means a method of electronically transferring a payroll claim for an employee to a financial institution; and

2. "Employee" means any certified or support employee as defined in Section 26-103 of Title 70 of the Oklahoma Statutes employed by any school district in this state.

B. A school district board of education may adopt a policy implementing a direct deposit system for employees of the school district.

C. No school district which chooses to implement a direct deposit system may charge any employee of that school district any fee or assessment as a result of the implementation and administration of a direct deposit system. **(70-6-106.2)**

Section 147. Violations.

A. Except for employment of a director of a public developmental research school as authorized in Section 1210.577 of this title and except as provided for in Section 6-101 of this title, it shall be unlawful for a member of the board of education of a school district to employ, approve or vote for the employment of any person to perform services for the district unless the person employed holds a valid certificate of qualification issued in accordance with the rules of the State Board of Education to perform the services the person is employed to perform.

B. The State Department of Education shall require each person offered a position within the agency that requires working directly with children to furnish fingerprints to be used for a state and national criminal history record check as defined by Section 150.9 of Title 74 of the Oklahoma Statutes. **(70-6-107)**

Section 148. Certificate of Qualification - Unlawful to Hold Position Without Required Certificate.

Except for service as a director of a public developmental research school and service by a faculty member of a higher education institution affiliated with a public developmental research school as specifically authorized in this act and except as provided for in Section 6-101 of this title, it shall be unlawful for any person to serve, or to contract or agree to serve, as superintendent, elementary superintendent, principal, supervisor, librarian, school nurse, classroom teacher or other instructional, supervisory or administrative employee of a school district unless the person holds a valid certificate of qualification issued in accordance with the rules of the State Board of Education to perform the services the person performs or contracts or agrees to perform. The State Board of Education shall provide for the certification of elementary superintendents. **(70-6-108)**

Section 149. Agents of School Authorities - Payment or Acceptance of Bribes.

It shall be unlawful and a misdemeanor for any officer or employee of the State Board of Education, a member of a board of education, or other person acting as an agent of the State Board of Education or any board of education, or of any school teacher, or of any person or organization, to pay or accept any fee, commission or remuneration of any kind or character in payment for services rendered in securing positions for teachers in any of the public schools of this state. **(70-6-110)**

Section 150. Gratuities or Rewards - Unlawful to Give.

It shall be unlawful and a misdemeanor for any person to give, or agree or offer to give, any gratuity or reward in consideration that he or any other person shall be employed as a teacher in any public school of this state. **(70-6-111)**

Section 151. Teachers - Gratuities or Rewards in Connection with Employment.

It shall be unlawful and a misdemeanor for any person, directly or indirectly, to ask or receive, or promise to receive any gratuity or reward or promise of a gratuity or reward for employing another person as a teacher in any public school of this state or for procuring for another person employment as a teacher in any public school of this state. **(70-6-112)**

Section 152. (Omitted)

Note: Recodified as Sec. 1041.1 (21-650.7)

Section 153. Alternatives to Corporal Punishment.

The State Department of Education shall provide each local board of education materials dealing with effective classroom discipline techniques as an alternative to the use of corporal punishment. **(70-6-113.1)**

> Determining reasonableness of punishment includes student's age, sex, physical and mental condition, nature and motive of offense, whether force was degrading, and likelihood of permanent harm upon student. *Holman v. Wheeler,* 677 P.2d 645 (Okla. 1983)

Section 154. Control and Discipline of Child.

Note: Recodified as Sec. 487.2 (70-24-100.4)

Section 155. Information Concerning Pupil.

It shall be unlawful for any teacher to reveal any information concerning a student obtained by the teacher in their capacity as a teacher except as may be required in the performance of the contractual duties of the teacher or as otherwise required by law. The information may be provided to the parent or guardian of the student upon request or as otherwise required by law. Any violation of this section shall upon conviction be considered a misdemeanor. **(70-6-115)**

> School district can provide information concerning pupils as to participation in athletics and school activities, and winning of honors and awards. *AG Op. July 20, 1972*

Information concerning age and scholastic records may be provided to proper school and college officials or other organizations, at discretion of Board of Education. *AG Op. July 20, 1972*

Section 156. Alternate Certification Program.

A. The State Board of Education shall grant an alternative placement teaching certificate to a person who makes application to the Board and meets all of the following criteria:

1. Holds at least a baccalaureate degree from an institution whose accreditation is recognized by the Oklahoma State Regents for Higher Education and has attained a cumulative grade point average of not less than 2.50 on a 4.0 scale;

2. Has completed a major in a field that corresponds to an area of specialization for an Elementary-Secondary Certificate, a Secondary Certificate or a vocational-technical certificate;

3. Declares the intention to earn standard certification by means of an alternative placement program in not more than three (3) years. The State Board of Education shall determine the subject matter of the professional education component of an alternative placement program. The number of clock or semester hours required for the professional education component of an alternative placement program needed to qualify for standard certification shall be as follows:

a. baccalaureate degree, eighteen (18) semester hours or two hundred seventy (270) clock hours, or

b. postbaccalaureate degree, twelve (12) semester hours or one hundred eighty (180) clock hours.

The State Board of Education shall establish a core minimum of six (6) semester hours or ninety (90) clock hours for the professional education component.

The requirements set forth in this subsection shall exclude all student teaching requirements pursuant to the provisions of subsection E of this section;

4. Has passed the general education and subject area portions of the competency examination required in Section 6-187 of this title in the area of specialization for which certification is sought; and

5. Either presents a document from an accredited public school district in this state offering employment in the area of specialization for which certification is sought on condition that the person enroll in an alternative placement program approved by the State Board of Education or declares the intention to seek employment as a teacher at an accredited public school district in this state. The certificate granted pursuant to this subsection shall be considered a "valid certificate of qualification" for the purposes of Sections 6-107 and 6-108 of this title, and the holder of the certificate shall be considered a resident teacher for the purposes of Section 6-195 of this title.

B. An alternative placement teaching certificate shall be renewed for not more than a maximum of three (3) years upon presentation of a document from an accredited public school district in this state offering renewed employment in the same area of specialization and a document from a teacher education institution verifying satisfactory progress in an appropriate alternative placement program.

C. Persons enrolled in an alternative placement program shall:

1. Have never been denied admittance to a teacher education program approved by the Oklahoma State Regents for Higher Education, the North Central Association of Colleges and Schools and by the Oklahoma Commission for Teacher Preparation to offer teacher education programs, nor have enrolled in and subsequently failed courses necessary to successfully meet the minimum requirements of the program, except those persons who hold a certificate;

2. Have on file with the director of teacher education at an Oklahoma institution of higher education a plan for meeting standard certification requirements within three (3) years;

3. Participate in the Residency Program, established in Section 6-195 of this title and have the same duties and responsibilities as other resident teachers, except those persons who hold a certificate; and

4. Except for persons participating in the federal Troops To Teachers Program, document at least two (2) years of work experience which is related to the subject area of specialization if the person has only a baccalaureate degree with no postbaccalaureate work in a related area.

D. The State Board of Education may grant an exception to the requirements for licensure and certification and, upon demonstration by an individual of specific competency in the subject area of specialization, may grant a license or certificate to the individual. The State Board may establish other requirements necessary to grant exceptions.

E. Student teaching and a prestudent teaching field experience shall not be required of alternative placement program participants for standard certification.

F. The State Board of Education shall promulgate rules authorizing adjunct teachers who shall be persons with distinguished qualifications in their field. Adjunct teachers shall not be required to meet standard certification. Adjunct teachers shall be limited to ninety (90) clock hours of classroom teaching per semester.

G. Each teacher education institution shall provide the Oklahoma Commission for Teacher Preparation an annual report of information as specified by the Commission regarding participation in the alternative placement programs offered by the Institution.

H. The Oklahoma Commission for Teacher Preparation shall not accredit, renew the accreditation of, or otherwise approve any teacher education program of any institution of higher education in this state that has not implemented alternative placement programs in at least four areas of specialization, including mathematics, science and a foreign language. Each institution shall allow individuals who meet the criteria of subsections A and C of this section to be:

1. Admitted to an alternative placement program without further qualification; and

2. Offered the opportunity to complete the requirements for standard certification set forth in subsection A of this section during the summer preceding and the summer following the first year of teaching with an alternative placement teaching certificate. Any person seeking standard certification through an alternative placement program shall be permitted to take necessary courses during regular semesters if offered.

I. The criteria specified in subsection H of this section can be met through a cooperative arrangement entered into by two or more institutions of higher education. **(70-6-122.3)**

> An individual seeking Alternative Placement certification is required to pass the competency examination prior to receipt of an Alternative Placement teaching certificate. Such an individual may also be required to undergo assessment by the Teacher Competency Review Panel prior to receipt of an Alternative Placement teaching certificate.
> *September 23, 1999 (AG Op. No. 99-63)*

Section 157. Certification for Teach For America Program.

A. The State Board of Education shall issue a two-year, nonrenewable license to teach to any person who has been accepted into the Teach for America Program and has on file with the Board a current Oklahoma criminal history record from the Oklahoma State Bureau of Investigation as well as a national criminal history record check as defined in Section 150.9 of Title 74 of the Oklahoma Statutes. Upon receipt of the Oklahoma criminal history record, the Board may issue a temporary license which shall be effective until receipt of the national fingerprint-based criminal history record. The person applying for a license shall be responsible for the cost of the criminal history records.

B. Notwithstanding any other provision of law, the State Board of Education shall issue a certificate to teach to any individual who has:

1. Been issued a license pursuant to subsection A of this section;

2. Completed the coursework requirements established for participants of the Teach for America Program;

3. Successfully passed the assessment requirements established by Teach for America for participants of the Teach for America Program; and

4. Submitted an application and payment of the certification fee as prescribed by the Board. **(70-6-122.4)**

Section 158. Alternative Placement Teaching Certificate.

A. The State Board of Education shall grant an Alternative Placement teaching certificate to any person:

1. Who meets the eligibility requirements for the Troops to Teachers program operated by the United States Department of Defense and managed by the Defense Activity for Non-Traditional Education Support (DANTES); and

2. Who meets the requirements set forth in Section 6-122.3 of Title 70 of the Oklahoma Statutes.

B. The State Board of Education shall adopt rules to implement the provisions of this section. **(70-6-122.5)**

Section 158.1. Temporary Teaching License.

A. The State Board of Education shall issue a one-year, nonrenewable secondary or middle level license to teach to any person who has attained certification by an alternative teacher certification organization as set forth in subsection C of this section and has on file with the Board a current Oklahoma criminal history record from the Oklahoma State Bureau of Investigation as well as a national criminal history record check as defined in Section 150.9 of Title 74 of the Oklahoma Statutes. Upon receipt of the Oklahoma criminal history record, the Board may issue a temporary license which shall be effective until receipt of the national fingerprint-based criminal history record. The person applying for a license shall be responsible for the cost of the criminal history records.

B. Notwithstanding the provisions of Section 6-195 of Title 70 of the Oklahoma Statutes, teachers issued a license pursuant to this section shall not be subject to the requirements of the residency program, but shall participate in the mentoring program provided by the alternative teacher certification organization as set forth in subsection C of this section. Upon successful completion of such mentoring program, the teacher shall be issued a certificate to teach by the State Board of Education after completion of the application and payment of the certification fee as prescribed by the State Board of Education.

C. For purposes of this section, the State Board of Education shall identify an alternative teacher certification organization that was founded with grant funding from the United States Department of Education and that developed the Passport to Teaching program, which is a certification program designed for professionals who want to change careers and become teachers. The program shall require candidates to hold a bachelor's degree, pass a professional teaching knowledge exam, pass a subject area exam, and pass a background check. The organization shall provide candidates with access to workshops, an experienced teacher-advisor, and optional access to comprehensive subject matter refresher courses. The organization shall also provide an intensive mentoring and induction program.

D. The State Board of Education shall adopt rules to implement the provisions of this section. **(70-6-122.6)**

Section 159. Teacher Assistants.

A. Beginning with the 1990-91 school year, every school site shall employ a teacher's assistant or use a volunteer for each class in grades kindergarten through two which has a class size of more than twenty (20) students in average daily membership as of September 15 of each year and which is composed of students, at least twenty percent (20%) of whom meet the criteria specified in subsection B of this section; provided, this requirement shall not apply to classes that are not subject to class size limitations pursuant to subsection D of Section 18-113.1 of this title or to pull-out sections for Chapter 1 or to Special Education students. Assistants shall be required as of September 15 of each year. The State Board of Education shall establish regulations that prescribe the qualifications for and duties of teacher assistants in public schools. The State Board of Education shall also establish standards and regulations which provide for a determination of how and when teacher assistants may be used as an appropriate and necessary part of classroom instruction. In addition to any other duties which the Board may deem appropriate, teacher assistants may perform or assist a classroom teacher in the performance of hallroom duty, bus duty, playground duty, lunchroom duty, extracurricular activities involving school functions or any other noninstructional duty the Board may prescribe. Provided, nothing in this section shall construe teacher assistants to be defined as personnel as set out in Section 6-108 of this title or require teacher assistants to possess the certification required for teachers.

B. Any student who meets the criteria established by the State Board which are commensurate with established eligibility criteria for participation in the National School Lunch Act of 1946, 42 U.S.C. Section 1751 et seq. as amended, shall be included in the percentage necessary to meet the requirement of subsection A of this section for the entitlement to a teacher's assistant for such class.

C. For the purposes of this section, and for Sections 18-113.1 and 18113.2 of this title, a federally funded bilingual assistant shall not qualify as a teacher's assistant. **(70-6-127)**

Section 159.1. Career Development Program for Paraprofessionals.

The Oklahoma Legislature recognizes that public school paraprofessionals play an important role in educating school children and in assisting teachers. The Legislature further recognizes the increasing role of public school paraprofessionals in the school system in light of teacher shortages. To achieve the goal of excellence for all persons who have an impact on student learning, it is the intent of the Oklahoma Legislature that public school paraprofessionals be afforded career opportunities and economic incentives through a career development program.

The State Board of Education shall adopt a program for the career development of public school paraprofessionals. The purpose of the program is to provide to public school paraprofessionals a system of career development which is based upon education and training advancement to encourage excellence among public school paraprofessionals. Nothing in this section shall be construed to require public school paraprofessionals to participate in the career development program.

For the purposes of this section, a public school paraprofessional is an employee of a school district whose position is either instructional in nature, or who delivers other direct services to students and/or their parents. A public school paraprofessional serves in a position for which a teacher or another professional has the ultimate responsibility for the design, implementation, and evaluation of the individual educational programs or related services and student performance. **(70-6-127A)**

Section 160. (Omitted)

Section 160.1. Minority Teacher Recruitment Advisory Committee.

A. There is hereby re-created until July 1, 2010, in accordance with the Oklahoma Sunset Law, a Minority Teacher Recruitment Advisory Committee which shall have oversight over implementation of the Minority Teacher Recruitment Center and shall advise the operation of such Center. The Advisory Committee shall be composed of nineteen (19) members. The presence of ten Advisory Committee members or their designees shall constitute a quorum. Appointments shall be made by July 1 with members serving a term of two (2) years unless no longer eligible. The Advisory Committee members shall be appointed as follows:

1. The Speaker of the House of Representatives shall appoint:

a. two members from the Oklahoma House of Representatives,

b. two members from an institution of higher education in The Oklahoma State System of Higher Education. One appointee shall be from a comprehensive university. One appointee shall be from a two-year college,

c. one member who is a public school teacher who is a minority,

d. one member who is a superintendent or designee of a public school district, and

e. two members representing a community with a high minority population. One appointee shall be African-American. One appointee shall be Hispanic;

2. The President Pro Tempore of the Senate shall appoint:

a. two members from the Oklahoma State Senate,

b. two members from an institution of higher education in The Oklahoma State System of Higher Education with a teacher preparation program. One appointee shall be from a regional university,

c. one member who is a public school teacher who is a minority,

d. one member who is a principal of a public high school, and

e. two members representing a community with a high minority population. One appointee shall be American Indian. One appointee shall be Asian-American;

3. The State Superintendent of Public Instruction or a designee shall serve as a member of the Advisory Committee;

4. The Chancellor of Higher Education or a designee shall serve as a member of the Advisory Committee; and

5. The Executive Director of the Oklahoma Commission for Teacher Preparation or a designee shall serve as a member of the Advisory Committee.

B. Members of the Advisory Committee shall be reimbursed for attendance at the Advisory Committee meetings by the appointing agency pursuant to the State Travel Reimbursement Act or Section 456 of Title 74 of the Oklahoma Statutes. Members of the Advisory Committee shall designate from among the members a chairperson and vice-chairperson. Staff assistance shall be provided by the Minority Teacher Recruitment Center.

C. Persons who are members on the effective date of this act shall retain their membership until their terms are completed.

D. The Minority Teacher Recruitment Advisory Committee shall:

1. Make recommendations on the annual operating budget of the Minority Teacher Recruitment Center and verify that the funds allocated to the Center through the Oklahoma State Regents for Higher Education are utilized exclusively by the Center by function;

2. Advise the Oklahoma State Regents for Higher Education of unmet needs within the state in the implementation of the Center's activities;

3. Annually comment publicly on the progress of the Center;

4. Assist the Oklahoma State Regents for Higher Education in developing and reporting information about the Center when necessary;

5. Meet as often as necessary to conduct business; and

6. Keep official minutes of the Committee meetings which shall be made available to the public upon request.

E. As used in this section and Section 6-130 of this title, “minority” means a person who is a lawful resident of the State of Oklahoma and who is:

1. African-American, a person having origins in any of the black racial groups of Africa;

2. Hispanic, a person of Mexican, Puerto Rican, Cuban, Central or South American descent;

3. Asian-American, a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands; or

4. American Indian and Alaskan Native, a person having origins in any of the original peoples of North America.
(70-6-129.1)

Section 161. Minority Teacher Recruitment Center.

Recognizing the future significance and challenge of educating a growing and highly diverse student population in Oklahoma common schools and acknowledging the underrepresentation of minority teachers among the state's professional education staff, the Oklahoma State Regents for Higher Education shall have authority to establish the Minority Teacher Recruitment Center and staff and administer its work. Upon recommendations and advice from the Minority Teacher Recruitment Advisory Committee re-created pursuant to Section 1 of this act, the Oklahoma State Regents for Higher Education are hereby directed to work with the State Board of Education, the Oklahoma Commission for Teacher Preparation and other agencies, boards and education organizations in the interests of recruiting, retaining and placing minority teachers in the public schools of the State of Oklahoma. Such efforts shall include, but not be limited to:

1. The provision and coordination of support services to teacher training programs in state institutions of higher education, including the funding of grants for campus-based recruitment, retention and placement programs that assist minority students who intend to become teachers;

2. The establishment and development of recruiting programs for potential minority teachers, including pre-collegiate curricular courses that emphasize school success and the opportunity to investigate teaching as a career choice, future teacher clubs and collegiate programs designed to recruit students making transitions from other careers and other areas of study;

3. The hosting of conferences dealing with issues that effect minority teacher recruitment, retention, and placement;

4. The creation of activities in the public and private schools of Oklahoma which enhance the image of the teaching profession; and

5. The creation and development of placement services providing assistance to both minority educators and school districts seeking to hire qualified minority teachers. **(70-6-130)**

Sections 162-166. (Omitted)

Note: See Section 180.0 et seq.

Section 166.0. School Protection Act.

Sections 3 through 10 of this act shall be known and may be cited as the "School Protection Act". **(70-6-140)**

Section 166.1. School Protection Act - Purpose.

The purpose of the School Protection Act is to provide teachers, principals, and other school professionals the tools they need to undertake reasonable actions to maintain order, discipline, and an appropriate educational environment. **(70-6-141)**

Section 166.2. School Protection Act - Definitions.

As used in the School Protection Act:

1. "Education employee" means any individual who is an employee of a school; and

2. "School" means a public school district, governmental entity that employs teachers as defined in Section 1-116 of Title 70 of the Oklahoma Statutes, or private kindergarten, elementary, or secondary school. **(70-6-142)**

Section 166.3. Penalties for False Accusations.

A. Except as otherwise provided in this section, any person eighteen (18) years of age or older who acts with specific intent in making a false accusation of criminal activity against an education employee to law enforcement authorities or school district officials, or both, shall be guilty of a misdemeanor and, upon conviction, punished by a fine of not more than Two Thousand Dollars ($2,000.00).

B. Except as otherwise provided in this section, any student between seven (7) years of age and seventeen (17) years of age who acts with specific intent in making a false accusation of criminal activity against an education employee to law enforcement authorities or school district officials, or both, shall, upon conviction, at the discretion of the court, be subject to any of the following:

1. Community service of a type and for a period of time to be determined by the court; or

2. Any other sanction as the court in its discretion may deem appropriate.

C. The provisions of this section shall not apply to statements regarding individuals elected or appointed to an educational entity.

D. This section is in addition to and does not limit the civil or criminal liability of a person who makes false statements alleging criminal activity by another. **(70-6-143)**

Section 166.4. Attorneys' Fees to Prevailing Party.

A. In any civil action or proceeding against a school or an education employee, the court may award costs and reasonable attorney fees to the prevailing party. In any civil action or proceeding by or between any education employee and a school or other education employee, the provisions of this section shall not apply.

B. Expert witness fees may be included as part of the costs awarded under this section. **(70-6-144)**

Section 166.5. Insurance Does Not Waive Defenses.

Unless otherwise provided by law, the existence of any policy of insurance indemnifying a school or an education employee against liability for damages is not a waiver of any defense otherwise available to the educational entity or its employees in the defense of the claim. **(70-6-145)**

Section 166.6. Student Assault on Education Employee - Suspension.

No student enrolled in a school shall assault, attempt to cause physical bodily injury, or act in a manner that could reasonably cause bodily injury to an education employee or a person who is volunteering for the school. Any student in grades six through twelve who violates the provisions of this section shall be subject to out-of-school suspension as provided for in Section 24-101.3 of Title 70 of the Oklahoma Statutes. This section shall be in addition to and does not limit the criminal liability of a person who causes or commits an assault, battery, or assault and battery upon a school employee as provided for in Section 650.7 of Title 21 of the Oklahoma Statutes. **(70-6-146)**

Section 166.7. Education Employees Injured by Assault or Battery - Leave of Absence.

An education employee who is injured as a result of an assault or battery upon the person of the employee while the employee is in the performance of any duties as an education employee shall be entitled to a leave of absence from employment with the school without a loss of leave benefits. **(70-6-147)**

Section 166.8. No Limitation or Amendment of Other Laws.

The School Protection Act shall be in addition to and shall not limit or amend The Governmental Tort Claims Act or any other applicable law. **(70-6-148)**

Section 167. Alternative Methods to Renew Certificates.

A. The State Board of Education shall promulgate rules by which a person who holds a valid Oklahoma Standard Teaching Certificate may satisfy requirements for renewal of the Standard Teaching Certificate by completing staff development programs, conferences and seminars in lieu of teaching experience or higher education credits required by the State Board of Education for certificate renewal. Only programs, conferences and seminars recognized for staff development credit by an Oklahoma public school district at the time the teacher attends the program, conference or seminar may be used to fulfill requirements under this section. The State Board of Education shall not require more staff development credit to be earned for certificate renewal than the Board requires teachers and administrators to earn pursuant to Section 6-158 of Title 70 of the Oklahoma Statutes.

B. District boards of education may charge a reasonable fee for a holder of a valid Oklahoma Standard Teaching Certificate who is not employed as a teacher or administrator in an Oklahoma public school to attend district-sponsored staff development programs or seminars. **(70-6-154.1)**

Sections 168.-180. (Omitted)

Note: See Section 180.0 et seq.

Section 180.0. Oklahoma Teacher Preparation Act.

This act shall be known and may be cited as the "Oklahoma Teacher Preparation Act". **(70-6-180)**

Section 180.1. Competency Based Teacher Preparation System.

The Legislature, recognizing its obligation to the children of this state to ensure their opportunity to receive an excellent education, and recognizing that the single most important factor affecting the quality of education is the quality of the individual teacher in the classroom, hereby calls for the development, implementation and administration of a new competency-based teacher preparation system in Oklahoma.

It is the intent of the Legislature that this act shall be in addition to existing laws governing teachers, and nothing herein shall be construed as repealing or amending any protection to teachers prescribed, or as removing or diminishing any existing power, authority or responsibility of the local boards of education and the State Board of Education not in conflict with the provisions of this act. Nondegreed vocational teachers and school nurses certified under rules promulgated by the State Board of Education shall be exempt from the provisions of this act, except for those provisions concerning professional development programs. **(70-6-181)**

Section 180.2. Definitions.

As used in the Oklahoma Teacher Preparation Act:

1. "Board" means the State Board of Education;

2. "Commission" means the Oklahoma Commission for Teacher Preparation;

3. "State Regents" means the Oklahoma State Regents for Higher Education;

4. "Licensed teacher" means any person who holds a valid license to teach, issued by the Board in accordance with the Oklahoma Teacher Preparation Act and the rules of the Board;

5. "Professional development program" means the program mandated by the Oklahoma Teacher Preparation Act for the continuous improvement and enrichment of the certified and licensed teachers of this state;

6. "Teacher education professional development committee" means the committee created in Section 6-186 of this title for the continuous improvement and enrichment of higher education faculty in teacher education programs in institutions of higher education;

7. "Department" means the State Department of Education;

8. "Residency committee" means a committee in a school district for the purpose of reviewing the teaching performance of a resident teacher and making recommendations to the Board and the preparing institution of higher education regarding certification of the resident teacher. A residency committee shall consist of a mentor teacher, the principal or an assistant principal of the employing school or an administrator designated by the district board and a teacher educator in a college or school of education of an institution of higher education, or an educator in a department or school outside the institution's teacher education unit. Provided that, if available, qualified mentor teachers shall have expertise in the teaching field of the resident teacher and, if possible, the higher education members of the residency committee shall have expertise and experience in the teaching field of the resident teacher. However, in all cases, at least one member of the residency committee shall have expertise and experience in the teaching field of the resident teacher;

9. "Teacher" means a person defined as a teacher in Section 1-116 of this title;

10. "Resident teacher" means any licensed teacher who is employed in an accredited school to serve as a teacher under the guidance and assistance of a mentor teacher and residency committee. The resident teacher shall have completed the program of the college or school of education of the accredited institution of higher education from which the person has been graduated, and shall have successfully completed the competency examination in areas of approval in which the resident teacher seeks certification;

11. "Certified teacher" means any teacher who has been issued a certificate by the Board in accordance with the Oklahoma Teacher Preparation Act and the rules of the Board;

12. "Mentor teacher" means any teacher holding a standard certificate who is employed in a school district to serve as a teacher and who has been appointed to provide guidance and assistance to a resident teacher employed by the school district. A mentor teacher shall be a classroom teacher and have a minimum of two (2) years of classroom teaching experience as a certified teacher.

A mentor teacher shall be selected by the principal from a list of qualified teacher volunteers who have submitted their names for that purpose. After compilation of the list, the principal shall provide opportunity for input from the bargaining agent, where one exists. Membership or nonmembership in a professional teacher organization shall not be considered as a factor in selecting a mentor teacher. No teacher may serve as a mentor teacher for more than one resident teacher at a time. When possible, a mentor teacher shall have successfully completed a mentor teacher professional development institute and be assigned to the same school site and have similar certification as the resident teacher;

13. "Higher education faculty" means any individual who is employed in a teaching capacity in an institution of higher education, approved or accredited by the Commission for the preparation of education personnel; and

14. "Competency examination" means the assessment required in the Oklahoma Teacher Preparation Act for licensure and certification as a teacher and shall consist of tests over general education, professional education and subject areas as defined by the Oklahoma Commission for Teacher Preparation. **(70-6-182)**

Section 180.3. Implementation of Competency Based Teacher Preparation System.

A. A new teacher preparation system shall include fundamental changes in the current system of teacher preparation and certification standards as was established in Sections 6-150 through 6-158.1 and 6-161 through 6-170 of this title and shall be developed, implemented and administered by the State Board of Education, the Oklahoma State Regents for Higher Education and the Oklahoma Commission for Teacher Preparation pursuant to the provisions of the Oklahoma Teacher Preparation Act. The new teacher preparation system shall be competency-based to include an assessment system designed to measure the competencies desired for teachers.

B. Except as otherwise provided by law, the new teacher preparation system shall be fully integrated and implemented by July 1, 1997, and shall be applied for students admitted to a teacher education program on or after September 1, 1997. Students admitted to a teacher education program prior to September 1, 1997, shall be allowed to continue in the present system until September 1, 1999. **(70-6-183)**

Section 180.4. Authority and Duties of Commission.

A. Beginning July 1, 1997, the Oklahoma Commission for Teacher Preparation shall have authority for approval and accreditation of teacher education programs and for assessment of candidates for licensure and certification according to the provisions of the Oklahoma Teacher Preparation Act. As part of this duty the Oklahoma Commission for Teacher Preparation shall:

1. Include the State Board of Education in the process;

2. Review and assess approved, accredited and new programs of teacher education; and

3. Encourage studies and research designed to improve teacher education.

From July 1, 1995, to July 1, 1997, the State Board of Education shall have the authority to approve and accredit teacher education programs. During such time the Oklahoma Commission for Teacher Preparation shall be included in the process. Before adopting any rule pertaining to approval or accreditation of teacher education programs or assessment of candidates for licensure and certification, the Oklahoma Commission for Teacher Preparation shall solicit comments from the State Board of Education, the Oklahoma State Regents for Higher Education and the State Board of Career and Technology Education on the proposed rule. Within forty-five (45) days of the receipt of the proposed rule from the Oklahoma Commission for Teacher Preparation, the State Board of Education, the State Regents and the State Board of Career and Technology Education shall separately review the proposed rule and return their recommendations to the Commission on the proposed adoption. Each recommendation shall include the rationale for the recommendation. The Oklahoma Commission for Teacher Preparation shall accord the recommendations due deliberation in its subsequent consideration of the adoption of each proposed rule. If the action of the Commission on a proposed rule is not consistent with the recommendation made by any of the reviewing entities, within ten (10) days of the Oklahoma Commission for Teacher Preparation's formal action on the rule, the Commission shall submit a report providing justification for its actions to the Education Oversight Board.

B. The State Board of Education, the Oklahoma State Regents for Higher Education and the State Board of Career and Technology Education shall also have authority to recommend to the Oklahoma Commission for Teacher Preparation rules for teacher education program approval and accreditation and rules for teacher assessment. Any such rule recommended shall be considered by the Commission within sixty (60) days of receipt of the rule by the same process provided in subsection A of this section for rules proposed by the Oklahoma Commission for Teacher Preparation.

C. Before adopting any rule pertaining to teacher licensure and certification, residency or professional development, the State Board of Education shall solicit comments from the Oklahoma Commission for Teacher Preparation, the Oklahoma State Regents for Higher Education and the State Board of Career and Technology Education on the proposed rule. Within forty-five (45) days of the receipt of a proposed rule from the State Board of Education, the Oklahoma Commission for Teacher Preparation, the State Regents and the State Board of Career and Technology Education shall separately review the proposed rule and return their recommendations to the Board on the proposed adoption. Each recommendation shall include the rationale for the recommendation. The State Board of Education shall accord the recommendations due deliberation in its subsequent consideration of the adoption of each rule. If the action of the State Board of Education on a proposed rule is not consistent with the recommendation made by any of the reviewing entities, within ten (10) days of the State Board of Education's formal action on the rule, the State Board of Education shall submit a report providing justification for its action to the Education Oversight Board.

D. The Oklahoma Commission for Teacher Preparation, the Oklahoma State Regents for Higher Education and the State Board of Career and Technology Education shall have authority to recommend to the State Board of Education rules for adoption in the areas of teacher licensure and certification, residency and professional development Any such rule recommended shall be considered by the State Board of Education within sixty (60) days of the receipt of the rule by the same process provided in subsection C of this section for rules proposed by the State Board of Education. **(70-6-184)**

Section 180.5. Competencies and Methods.

A. The following competencies and methods shall be incorporated into the programs approved by the Oklahoma Commission for Teacher Preparation for the competency-based teacher preparation system provided for the Oklahoma Teacher Preparation Act:

1. The teacher preparation system shall include, but not be limited to, the following competencies:

a. excellence in the arts and sciences,

b. an in-depth knowledge of the subject matter to be taught,

c. the ability to identify and cultivate talent and potential in students,

d. an understanding of child and human development,

e. teaching skills developed through a variety of learning experiences,

f. the ability to interact effectively with all students,

g. skills necessary for working with parents, guardians and custodians of students in the education process,

h. skills necessary to involve the community in education,

I. skills to foster teamwork within and among schools,

j. for administrators, skills necessary to be an effective leader of a school or school district, and

k. skills in effective classroom management and student discipline;

2. The preservice program shall include the following methods to achieve the competencies listed in paragraph 1 of this subsection:

a. require teacher candidates to study arts and sciences at the undergraduate level,

b. require secondary and elementary/secondary teacher candidates to have undergraduate majors, or their equivalents, in a subject area, and require teacher candidates in early childhood, elementary, and special education to have subject area concentrations which allow qualification as a generalist,

c. require teacher candidates to study the individuality of students, the capacity of students to learn and the process of learning,

d. integrate curriculum from other disciplines with the education curriculum,

e. require teacher candidates to have training experiences and personal contact with parents, guardians or custodians of school-age children,

f. require teacher candidates to have community involvement experience,

g. structure courses so as to require teamwork activities, and

h. require teacher candidates to study, in existing coursework, substance abuse symptoms identification and prevention, mental illness symptoms identification and mental health issues, classroom management skills, and classroom safety and discipline techniques;

3. The Oklahoma Commission for Teacher Preparation shall not require more than a four-year program of one hundred twenty-four (124) semester hours to complete a teacher education degree. Provided, any program approved by the State Board of Education prior to July 1, 1995, which requires more hours may continue to require such hours. Any

program approved prior to July 1, 1995, which requires more than one hundred twenty-four (124) semester hours for a teacher education degree shall implement requirements for this program without additional hours.

B. It is the intent of the Legislature that institutions of higher education which offer teacher education programs hold such programs accountable for meeting the licensure and certification competencies approved by the State Board of Education. It is the intent of the Legislature that the teacher education programs incorporate a curriculum to achieve the competency-based system and include integration of the teacher preparation curricula with the arts and sciences departments curricula. Each institution of higher education which seeks accreditation or approval for its teacher education program shall develop an institution plan which follows the State Board of Education competencies for licensure and certification. In developing such institution plans, the higher education institution shall establish a process which seeks information and input from teacher preparation faculty, faculty from arts and sciences and other programs and disciplines which are appropriate, students within the teacher education program, teachers, administrators, parents, guardians or custodians of students and business and community leaders. Each institution shall report annually to the Oklahoma Commission for Teacher Preparation the procedures used to inform the public regarding the institution's teacher education program and the manner through which public input is solicited and received. The institution's plan shall be accessible to any interested party under the Oklahoma Open Records Act. No institution of higher education's teacher education program shall be approved by the Commission unless the institution plan has been approved by that institution's governing board. Initial institution plans shall be filed with the Oklahoma Commission for Teacher Preparation by January 1, 1997, and as required by the Commission thereafter. The Oklahoma State Regents for Higher Education may facilitate the development of institution plans to assist institutions of higher education. **(70-6-185)**

Section 180.6. Criteria for Teacher Education Programs.

A. Criteria for the approval and accreditation of teacher education programs in Oklahoma institutions of higher education shall include, but not be limited to, substantial evidence that persons who enter teacher education programs demonstrate:

1. Competency in the oral and written use of the English language;

2. A minimum grade point average as established by the Oklahoma Commission for Teacher Preparation; and

3. The ability to meet criteria established pursuant to the Oklahoma Teacher Preparation Act at the completion of the teacher education program and provide evidence of having worked with children or youth in a variety of situations.

Criteria shall also include a greater emphasis upon field work in accredited schools by prospective teachers under the supervision of higher education faculty.

B. It is hereby declared to be the intent of the Legislature that the Oklahoma Commission for Teacher Preparation work with the Oklahoma State Regents for Higher Education and the various institutions of higher education in establishing a procedure whereby full-time teacher education faculty continue their professional development during their tenure at an institution of higher education to ensure that the future teachers of this state are taught by professional educators fully trained in their area of expertise. Each approved or accredited program of teacher education shall have a system for documenting and reporting the annual professional development activities of all teacher education faculty members. Faculty professional development reports shall be reviewed by the Commission along with professional development activities as a normal part of the accreditation process.

It is further declared to be the intent of the Legislature that such professional development plans provide alternative means of education including, but not limited to:

1. Professional development programs;

2. Higher education courses;

3. Exchange programs with public school classroom teachers, administrators, and other school personnel; and

4. Programs whereby all full-time teacher education faculty members directly involved in the teacher education process, including all administrators of the teacher education program, are required to serve in a state accredited public

school for at least ten (10) clock hours per school year in responsibilities related to their respective teacher education teaching fields.

All public school systems shall participate in the programs provided for in this subsection when needed.

C. The Oklahoma Commission for Teacher Preparation shall adopt rules requiring specific improvements to strengthen the screening of student applicants and field activity and placement as set out in subsection A of this section. Such rules shall be reviewed and amended or readopted by the Commission at least once every five (5) years.

D. To assist the Commission in setting specific requirements as set out in subsections A and C of this section, the Commission shall annually prepare a statistical report showing the percentage of students from each of the Oklahoma institutions of higher education who have successfully completed or who have failed the competency examination for licensure and certification. The annual report shall show the percentages for each institution of higher education and each assessment area separately by student degree status and shall be distributed annually to each member of the Oklahoma Commission for Teacher Preparation, the Oklahoma State Regents for Higher Education, the governing board of each institution which has an approved or state accredited teacher education program, the State Board of Education, the State Board of Career and Technology Education and the Legislature. **(70-6-186)**

Section 180.7. Competency Examinations.

A. A competency examination shall be adopted by the Oklahoma Commission for Teacher Preparation for the general education, professional education and various subject areas and grade levels for purposes of ensuring academic achievement and competency of each teacher candidate or teacher in the subject area the person is seeking licensure or certification to teach which shall also include licensure or certification as an administrator, as prescribed by the State Board of Education.
The Commission, consistent with the purposes of this section, shall promulgate rules and procedures to guarantee the confidentiality of examinations.

B. No teacher candidate shall be eligible for licensing until successfully completing the competency examination except those candidates who make application to the State Board and meet the criteria for the Alternative Placement Program pursuant to Section 6-122.3 of this title. Certification shall be limited to areas of approval in which the licensed or certified teacher has successfully completed the examination. Subject to the provisions of subsection C of this section, testing for certification for subjects in which a teacher candidate or teacher is seeking a minor teaching assignment or an endorsement to teach shall be limited to the specific subject area test.

A teacher candidate or teacher may take the general education, professional education or subject area portions of the examination subject to any limit imposed by the Commission.

C. 1. Except as otherwise provided for in this subsection, a teacher may be certified in as many areas as the teacher meets the necessary requirements provided by law and has successfully completed the subject area portion of the examination. Certification in early childhood, elementary, or special education shall require completion of an appropriate teacher education program approved by the Oklahoma Commission for Teacher Preparation.

2. Any teacher who is certified to teach elementary education may be certified in early childhood education upon meeting the requirements provided in law and successful completion of the appropriate subject area portion of the examination by July 1, 2012. Any teacher who is certified to teach early childhood education may be certified in elementary education upon meeting the requirements provided in law and successful completion of the appropriate subject area portion of the examination by July 1, 2012. Any special education teacher who becomes certified to teach through completion of an accredited teacher preparation program may be certified in early childhood or elementary education upon meeting the requirements provided in law and successful completion of the appropriate subject portion of the examination prior to July 1, 2012. Any teacher who becomes certified to teach through completion of an accredited teacher preparation program or becomes alternatively certified to teach through the Troops to Teachers program may be certified in special education upon meeting the requirements provided in law and successful completion of the appropriate subject area portion of the examination by July 1, 2012.

D. The Commission shall offer the competency examination at least four times per calendar year on dates to be established by the Commission.

E. Nothing in the Oklahoma Teacher Preparation Act shall restrict the right of the State Board of Education to issue an emergency or provisional certificate, as needed. Provided, however, prior to the issuance of an emergency certificate, the district shall document substantial efforts to employ a teacher who holds a provisional or standard certificate or who is licensed in the teaching profession. In the event a district is unable to hire an individual meeting this criteria, the district shall document efforts to employ an individual with a provisional or standard certificate or with a license in another curricular area with academic preparation in the field of need. Only after these alternatives have been exhausted shall the district be allowed to employ an individual meeting minimum standards as established by the State Board of Education for the issuance of emergency certificates. **(70-6-187)**

Note: Amended by HB 1274, Sec. 1 of the 2011 Reg. Sess. Effective July 1, 2011.

The Commission is authorized to adopt three separate tests - general education, professional education, and subject matter area - and to charge separate fees for the tests. *September 23, 1999 (AG Op. No. 99-63)*

Section 180.8. Performance-based Teacher Assessment System.

The curriculum examination which was required by Section 6-156 of this title shall be restructured into a competency examination by the Oklahoma Commission for Teacher Preparation with the assistance of the State Board of Education, the Oklahoma State Regents for Higher Education and the State Board of Career and Technology Education in accordance with the provisions of Section 6-184 of this title concurrently with the development of the new teacher preparation system. The competency-based teacher examination shall replace the current teacher curriculum examination which was established in Sections 6-150 through 6-158 and 6-162 through 6-170 of this title. The new teacher competency examination shall be ready for implementation and administered by the Commission beginning July 1, 1997.

The competency examination shall serve as a threshold for entry into the profession.

By September 1, 1995, the Oklahoma Commission for Teacher Preparation shall develop and release a request for proposals for the state teacher competency examination which assesses candidates for licensure and certification for demonstrated competency in subject matter, professional education, and state core knowledge and skills assessment, which includes critical thinking, communication and computation. The Oklahoma Commission for Teacher Preparation shall accept bids in an open, competitive bidding process until January 1, 1996. The Commission shall review all bids and proposals and make recommendations to the Governor and Legislature by March 1, 1996. In evaluating the bids and proposals the Commission shall take into consideration the cost of developing, administering and scoring the competency examination, the cost to each individual tested and to the state, and shall factor in the cost of periodically updating the state competency examination. The curriculum examination as was required by Section 6-156 of this title and in effect July 1, 1994, shall continue to be offered by the State Board of Education until July 1, 1997. Beginning July 1, 1997, the Oklahoma Commission for Teacher Preparation shall have authority to continue to offer that examination as needed and to determine whether a student should take that test in lieu of the competency examination.

Successful completion of the curriculum examination as was required by Section 6-156 of this title shall be sufficient to satisfy the competency examination requirement for any person seeking certification in administration who successfully completed the examination prior to May 1, 1999, and who completes a masters degree in school administration or education administration from an accredited institution of higher education prior to December 31, 1999. **(70-6-188)**

State board of education must issue certificates based on a determination by Teacher Preparation Commission that an individual has passed the required examination. *January 31, 2000 (AG Op. No. 00-6)*

Section 180.9. Competency-based Certification - Revocation Procedures.

A. The licensure and certification system required by the Oklahoma Teacher Preparation Act as part of the new teacher preparation system shall be competency-based. The competencies for licensure and certification shall be integrated with competencies specified in Section 6-185 of this title. By July 1, 1996, the State Board of Education shall adopt general competencies for licensure and certification, and by January 1, 1997, the Board shall have adopted full competencies and implemented the licensure and certification systems as required in this act. No higher education courses or credit hours may be specified by the State Board of Education in rules for licensure or certification. Nothing in the licensure and certification rules adopted by the Board shall prohibit the Oklahoma State Regents for Higher

Education from adopting policies and procedures it deems appropriate for coursework, grade point average, or credit hours for teacher preparation at institutions in The Oklahoma State System of Higher Education.

B. The certification requirements for a school principal not alternatively certified under subsection D of this section shall include not less than:

1. Completion of a standard master's degree;

2. Completion of a program in education administration approved by the Oklahoma Commission for Teacher Preparation with an emphasis on curriculum, instruction and building-level leadership skills;

3. Any other professional education and requirements as may be fixed by the State Board of Education;

4. A passing score on the subject area competency examination required in Section 6-187 of this title; and

5. A minimum of two (2) years of successful teaching experience in public or private schools accredited by the State Board of Education or by the proper accrediting authority of another state of the United States.

C. The certification requirements for a superintendent of schools not alternatively certified under subsection D of this section shall include not less than:

1. Certification as a school principal or completion of the certification requirements for a school principal as set forth in subsection B of this section;

2. Completion of a program in education administration approved by the Oklahoma Commission for Teacher Preparation with an emphasis on district-level leadership skills, and which shall include the following competencies:

a. instructional leadership,

b. organizational leadership, including education finance, education law, and risk management,

c. collaborative and community leadership, and

d. ethical leadership;

3. Any other professional education and requirements as may be fixed by the State Board of Education;

4. A passing score on the subject area competency examination required in Section 6-187 of this title; and

5. A minimum of two (2) years of administrative experience in public or private schools accredited by the State Board of Education or by the proper accrediting authority of another state of the United States.

D. 1. The standards for alternative certification for superintendents of schools and principals shall include:

a. the completion of a standard master’s degree,

b. two (2) years of relevant work experience in a supervisory or administrative capacity,

c. a passing score on the subject area competency examination required in Section 6-187 of this title, and

d. filing with the director of teacher education at an Oklahoma accredited institution of higher education a plan for completing an alternative administrative preparation program within three (3) years. Relevant work experience and coursework may be considered and applied to complete the plan.

2. An alternative certificate for superintendent of schools and principals shall not exceed three (3) years and shall not be renewable.

3. Upon successful completion of an alternative administrative preparation program by a participant, the State Board of Education shall issue a standard certificate for superintendent or principal, as applicable, to the applicant.

4. Any person participating in an alternative certification program for superintendent of schools and principals on the effective date of this act shall be subject to the program requirements in effect prior to the effective date of this act.

E. The certification requirements for a superintendent of a technology center school district shall include not less than a standard master's degree, any other professional education requirements as may be fixed by the State Board of Education, and a minimum of four (4) years teaching, supervisory or administrative experience, which may include teaching of full-time adult students, in a technology center school district. A person meeting the requirements set forth in subsection C of this section shall be eligible for a certificate for superintendent of a technology center school district.

F. Certificates may be revoked by the State Board of Education for willful violation of any rule of the Board or of any federal or state law or other proper cause but only after sufficient hearing has been given before the Board.

G. Teaching in a Head Start program or programs shall be used for renewal of a standard teaching certificate. **(70-6-189)**

Section 180.9A. Mathematics Certification.

A. Beginning July 1, 2000, no school district shall employ any teacher to teach mathematics in grades seven or eight, unless the teacher is licensed or certified to teach middle or secondary level mathematics or has received middle level endorsement pursuant to subsection B of this section. A school district may employ a teacher without such a license, certificate, or endorsement until September 1, 2003, if the teacher became licensed or certified to teach prior to September 1, 1999.

B. Any teacher who became licensed or certified to teach prior to September 1, 1999, does not have middle or secondary level certification in mathematics, and is serving in a school as a mathematics teacher for grades seven or eight shall be required to obtain middle level certification or middle level endorsement before September 1, 2003.

For such teachers, middle level certification or middle level endorsement may be obtained as follows:

1. Middle level mathematics certification – A teacher may obtain middle level certification by successfully completing the appropriate Oklahoma Subject Area Test for middle level mathematics administered by the Oklahoma Commission for Teacher Preparation. The teacher shall not be required to take the Oklahoma Professional Teacher Examination for secondary students administered by the Oklahoma Commission for Teacher Preparation. A teacher granted middle level certification pursuant to this paragraph shall be entitled to teach mathematics in grades seven and eight for high school graduation credit; and

2. Middle level endorsement – A teacher may obtain a middle level endorsement by successfully completing a professional development institute in middle level mathematics developed and administered by the Oklahoma Commission for Teacher Preparation. Any professional development institute developed pursuant to this paragraph shall meet the criteria as established in subsection H of this section. A teacher granted middle level endorsement pursuant to this paragraph shall not be entitled to teach mathematics for high school graduation credit.

C. Any teacher serving in a school as a mathematics teacher for grade six may obtain middle level endorsement by successfully completing a professional development institute in middle level mathematics developed pursuant to this section. Such teacher shall be eligible to participate in a professional development institute in middle level mathematics developed and administered by the Oklahoma Commission for Teacher Preparation one time free of charge.

D. Any teacher seeking middle level certification or middle level endorsement pursuant to subsection B of this section shall be eligible to take the Oklahoma Subject Area Test in middle level mathematics one time free of charge after July 1, 2000, or participate in a professional development institute in middle level mathematics developed and administered by the Oklahoma Commission for Teacher Preparation one time free of charge after July 1, 2000.

E. A teacher who is granted middle level certification in mathematics, pursuant to subsection B of this section, may teach grade nine only if the teacher successfully completes the Oklahoma Professional Teacher Examination for secondary students.

F. A teacher who is granted middle level endorsement pursuant to subsection B or C of this section may teach mathematics courses in grades seven or eight for high school credit only if the teacher has completed a minimum of twenty-four college credit semester hours of mathematics as specified by the State Department of Education.

G. Any teacher who became licensed or certified to teach prior to September 1, 1999, did not have middle or secondary level certification in mathematics and successfully completed the appropriate Oklahoma Subject Area Test for middle level mathematics between July 1, 1999, and July 1, 2000, shall be granted a middle level certificate pursuant to subsection B of this section.

H. 1. Any professional development institute in middle level mathematics developed pursuant to this section and administered by the Oklahoma Commission for Teacher Preparation shall:

a. consist of a minimum of thirty (30) clock hours,

b. be competency based,

c. emphasize effective learning practices,

d. require collaboration among participants, and

e. require each participant to prepare a work product which can be utilized in the classroom by the participant.

2. Any professional development institute in middle level mathematics developed pursuant to this section and administered by the Oklahoma Commission for Teacher Preparation shall be chosen through a competitive bid process, be reviewed by a professional development committee and other constituencies, and be subject to peer review. Invitations to bid for a professional development institute shall be open to any public or private entity.

I. Beginning July 1, 2005, any teacher with certification or endorsement to teach mathematics at the secondary level may teach mathematics in grade five. **(70-6-189.1)**

Section 180.10. Qualifications for Teacher Employment, Licensure, and Certification.

A. The board of education of each school district shall employ and contract in writing, as required in Section 6-101 of this title, only with persons certified or licensed to teach by the State Board of Education in accordance with the Oklahoma Teacher Preparation Act, except as otherwise provided for by Section 6-101 of this title and by other law.

B. The Board shall issue a license to teach to any person who:

1. Has successfully completed the teacher education program required by the State Board of Education prior to July 1, 1997, and the Oklahoma Commission for Teacher Preparation beginning July 1, 1997;

2. Has graduated from an accredited institution of higher education that has approval or accreditation for teacher education;

3. Has met all other requirements as may be established by the Board;

4. Has made the necessary application and paid the competency examination fee in an amount and as prescribed by the Commission;

5. Has successfully completed the competency examination required in Section 6-187 of this title; and

6. Beginning November 1, 2001, has on file with the Board a current Oklahoma criminal history record from the Oklahoma State Bureau of Investigation as well as a national criminal history record check as defined in Section 150.9 of Title 74 of the Oklahoma Statutes. Upon receipt of the Oklahoma criminal history record, the Board may issue a temporary license which shall be effective until receipt of the national fingerprint-based criminal history record. The person applying for a license shall be responsible for the cost of the criminal history records.

C. The Board shall issue a certificate to teach to any person who:

1. a. holds a license to teach in accordance with the Oklahoma Teacher Preparation Act,

   b. has served a minimum of one (1) school year as a resident teacher,

   c. has made the necessary application and paid the certification fee as prescribed by the Board, and

   d. has been recommended for certification by the residency committee;

2. Holds an out-of-state certificate and meets standards set by the Board; or

3. Holds certification from the National Board for Professional Teaching Standards.

D. Beginning July 1, 2004, any person applying for initial Oklahoma certification who has not applied for and received an Oklahoma teacher license shall have on file with the Board a current Oklahoma criminal history record from the Oklahoma State Bureau of Investigation as well as a national criminal history record check as defined in Section 150.9 of Title 74 of the Oklahoma Statutes. Upon receipt of the Oklahoma criminal history record, the Board may issue a temporary certificate which shall be effective until receipt of the national fingerprint-based criminal history record. The person applying for a certificate shall be responsible for the cost of the criminal history records.

E. If a resident teacher is a graduate of an out-of-state institution of higher education, the recommendation of the residency committee shall be made to the State Board of Education.

F. Any person holding a valid certificate, issued prior to January 1, 1997, shall be a certified teacher for purposes of the Oklahoma Teacher Preparation Act, subject to any professional development requirements prescribed by the Oklahoma Teacher Preparation Act or by the State Board of Education. **(70-6-190)**

Section. 180.10A. Speech - Language Pathology Certification.

Individuals who held a provisional certificate during the 1998-1999 school year in Speech-Language Pathology shall be granted an extension of the provisional certificate by the State Board of Education. On and after July 1, 2005, provisional certificates may be renewed on an annual basis, provided the individual documents admission to and progress toward completion of the relevant master's degree program. **(70-6-190.1)**

Section 180.10B. School Psychologist/Psycho metrist Licensure or Certification.

A. Any person seeking licensure or certification as a school psychologist or school psychometrist shall be exempt from the requirement to successfully complete the general education and professional education portions of the competency examination required pursuant to Sections 6-187 and 6-190 of Title 70 of the Oklahoma Statutes.

B. Any person certified as a school psychologist or school psychometrist pursuant to a substitution or exemption as provided in this section shall be required to complete all portions of the competency examination as required pursuant to Sections 6-187 and 6-190 of Title 70 of the Oklahoma Statutes if such person seeks to add certification in another subject in the future.

C. The Oklahoma Commission for Teacher Preparation shall adopt rules to implement the provisions of this section. **(70-6-189.2)**

Section 180.11. Teachers' Curriculum Examination Revolving Fund.

Until July 1, 1998, there is created in the State Treasury a revolving fund for the State Board of Education, to be designated the "Teachers' Curriculum Examination Revolving Fund". The fund shall consist of curriculum examination fees paid to the Board pursuant to statutory authority. The revolving fund shall be a continuing fund not subject to fiscal year limitations and shall be under the control and management of the administrative authority of the State Board of Education. Expenditures from said fund shall be made to maintain the curriculum examination process as set out in of this act. Warrants for expenditure shall be drawn by the State Treasurer on claims signed by an authorized employee or employees of the State Board of Education and approved by the Director of State Finance.

On July 1, 1997, the State Board of Education shall transfer any unencumbered funds ln the Teachers' Curriculum Examination Revolving Fund to the Teachers' Competency Examination Revolving Fund. Any funds which are unexpended on January 1, 1998, shall be transferred to the Teachers' Competency Examination Revolving Fund. On July 1, 1997, there shall be created in the State Treasury a revolving fund for the Oklahoma Commission for Teacher Preparation, to be designated the "Teachers' Competency Examination Revolving Fund". The fund shall consist of all monies received by the Commission from competency examination fees paid pursuant to statutory authority. The revolving fund shall be a continuing fund not subject to fiscal year limitations and shall be under the control and management of the administrative authority of the Oklahoma Commission for Teacher Preparation. Expenditures from said fund shall be made to maintain the competency examination process set out in the Oklahoma Teacher Preparation Act. Warrants for expenditure shall be drawn by the State Treasurer on claims signed by an authorized employee or employees of the Oklahoma Commission for Teacher Preparation and approved by the Director of State Finance. **(70-6-191)**

Section 180.12. Professional Development - Legislative Intent.

It is hereby declared to be the intent of the Legislature to establish a professional development procedure whereby all teachers in the state continue their education beyond initial licensing and certification by the state to ensure that the children of the state are taught by professional educators, fully prepared in their areas of expertise. Furthermore, such professional development procedure shall provide alternative means of education, including one or more of the following: In-service programs, higher education courses, or other alternative means of education designed to help teachers enrich their professional abilities. **(70-6-192)**

Section 180.13. Funding for Professional Development Programs.

Each school district shall receive an appropriate amount of funds for the exclusive purpose of professional development. These funds shall be expended for professional development programs within guidelines adopted by the State Board of Education. All funds provided to local school districts shall be provided by and subject to the approval of plans submitted to the State Board of Education by each local school district no later than May 10 of each year. Such funds shall be deposited in a special account within the general fund of the local school district. A list of all expenditures made from such account shall be provided to the professional development committee upon request of the committee chairperson. **(70-6-193)**

Section 180.14. Local Professional Development Programs and Committees.

A. The district boards of education of this state shall establish professional development programs for the certified and licensed teachers and administrators of the district. Programs shall be adopted by each board based upon recommendations of a professional development committee appointed by the board of education for the district. For the fiscal years ending June 30, 2011, and June 30, 2012, a school district board of education may elect not to adopt and offer a professional development program for certified and licensed teachers and administrators of the district. If a school district elects not to adopt and offer a professional development program, the district may expend any monies allocated for professional development for any purpose related to the support and maintenance of the school district as determined by the board of education of the school district.

B. Each professional development committee shall include classroom teachers, administrators and parents, guardians or custodians of children in the school district and shall consult with a higher education faculty. A majority of the members of the professional development committee shall be composed of classroom teachers. The teacher members shall be selected by a designated administrator of the school district from a list of names submitted by the teachers in the school district. The members selected shall be subject to the approval of a majority vote of the teachers in the district. At a minimum, once every four (4) years the committee shall include at least one school counselor in its membership.

C. In developing program recommendations, each professional development committee shall annually utilize a data-driven approach to analyze student data and determine district and school professional development needs. The professional development programs adopted shall be directed toward development of competencies and instructional strategies in the core curriculum areas for the following goals:

1. Increasing the academic performance index scores for the district and each school site;

2. Closing achievement gaps among student subgroups;

3. Increasing student achievement as demonstrated on state-mandated tests and the ACT;

4. Increasing high school graduation rates; and

5. Decreasing college remediation rates.

Each program may also include components on classroom management and student discipline strategies, outreach to parents, guardians or custodians of students, special education, and racial and ethnic education, which all personnel defined as teachers in Section 1-116 of this title shall be required to complete on a periodic basis. The State Board of Education shall provide guidelines to assist school districts in developing and implementing racial and ethnic education components into professional development programs. At least once a year a program shall be offered which includes a component of teacher training on recognition and reporting of child abuse and neglect which all teachers shall be required to complete. Additionally at least one time per year, beginning in the 2009-2010 school year, training in the area of autism shall be offered and all resident teachers of students in early childhood programs through grade three shall be required to complete the autism training during the resident year and at least one time every three (3) years thereafter. All other teachers and education support professionals of students in early childhood programs through grade three shall be required to complete the autism training at least one time every three (3) years. The autism training shall include a minimum awareness of the characteristics of autistic children, resources available and an introduction to positive behavior supports to challenging behavior. Each adopted program shall allow school counselors to receive at least one-third (1/3) of the hours or credit required each year through programs or courses specifically designed for school counselors.
Districts are authorized to utilize any means for professional development that is not prohibited by law including, but not limited to, professional development provided by the district, any state agency, institution of higher education, or any private entity.

D. Except as otherwise provided for in this subsection, each licensed or certified teacher in this state shall be required by the district board of education to meet the professional development requirements established by the board, or established through the negotiation process. Except as otherwise provided for in this subsection, the professional development requirements established by each board of education shall require every teacher to annually complete a minimum number of the total number of points required to maintain employment. Failure of any teacher to meet district board of education professional development requirements may be grounds for nonrenewal of such teacher's contract by the board. Such failure may also be grounds for nonconsideration of salary increments affecting the teacher. For the fiscal years ending June 30, 2011, and June 30, 2012, a licensed or certified teacher shall not be required to complete any points of the total number of professional development points required. Provided, a teacher may elect to complete some or all of the minimum number of points required for the two (2) fiscal years and any points completed shall be counted toward the total number of points required to maintain employment. If a teacher does not complete some or all of the minimum number of points required for one (1) or both fiscal years, the total number of points required to maintain employment shall be adjusted and reduced by the number of points not completed.

E. Each district shall annually submit a report to the State Department of Education on the district level professional development needs, activities completed, expenditures, and results achieved for each school year by each goal as provided in subsection C of this section. If a school district elects not to adopt and offer a professional development program as provided for in subsection A of this section, the district shall not be required to submit an annual report as required pursuant to this subsection but shall report to the State Department of Education its election not to offer a program and all professional development activities completed by teachers and administrators of the school district.

F. Subject to the availability of funds, the Department shall develop an online system for reporting as required in subsection E of this section. The Department shall also make such information available on its website. **(70-6-194)**

Note: Amended by SB 553, Sec. 41 & 42 of the 2011 Reg. Sess.

Section 180.14A. Scholarships for Great Expectations Summer Institutes.

A. Beginning with the 1997-98 school year, the State Board of Education shall award scholarships to public school districts who wish to have teachers and administrators from certain school sites attend the Great Expectations Summer Institutes for Teachers offered by an institution within The Oklahoma State System of Higher Education. Any school

district applying for a scholarship for teachers and administrators from a school site which is currently, or has been declared, a high challenge school pursuant to the provisions of subsection C of Section 1210.541 of this title for any of the previous three (3) school years, shall be given priority for receipt of such scholarship. Scholarships shall be awarded based on the amount of funds allocated to the State Department of Education for such purpose.

B. The State Board of Education shall develop criteria for scholarship awards and shall promulgate rules as necessary to implement the process by which the scholarships shall be awarded. **(70-6-194.2)**

Section 180.15. Residency Program.

A. The State Department of Education shall administer a residency program which shall be approved by the State Board of Education. Such program shall be developed in consultation with the teacher education institutions, the Oklahoma Commission for Teacher Preparation and the district boards of education. Such program shall include, but not be limited to:

1. Guidelines and assignments for resident teacher positions in the school districts;

2. Requirements and guidelines for selection and appointment of mentor teachers which must include any requirements specified in the Oklahoma Teacher Preparation Act;

3. Guidelines for the appointment and functions of a residency committee; and

4. An appropriate professional development program for the resident teacher.

B. Except as otherwise provided in the Oklahoma Teacher Preparation Act, no person shall be certified to teach in the accredited schools of this state, unless such person:

1. Has completed at least one (1) school year of teaching service as a resident teacher in the residency program as provided in the Oklahoma Teacher Preparation Act;

2. Has been recommended for certification by the appointed residency committee after completion of not less than one (1) or more than two (2) school years of resident teaching service; and

3. Has successfully completed the curriculum examination as prescribed by the Board prior to July 1, 1997, and the competency examination as prescribed by the Commission beginning July 1, 1997.

C. Any person who has been issued a license to teach by the Board may be employed on a temporary or continuing contract basis as a resident teacher by an accredited school upon appointment by the district board of education or by a private or public provider of early childhood education programs as authorized in Section 11-103.7 of this title.

D. Upon placement of a licensed teacher in a resident teacher position at a public school, the district board of education shall appoint the residency committee members, as prescribed in the Oklahoma Teacher Preparation Act, who shall have the following duties:

1. Meet with the resident teacher as may be required by the Board;

2. Work with the resident teacher to assist in all matters concerning classroom management and professional development for that teacher;

3. Provide for meaningful parental, guardian or custodian input as one criterion in evaluating the resident teacher's performance; and

4. Upon completion of one (1) school year of residency, make recommendations to the Board and the preparing institution of higher education as to whether the resident teacher should be issued a certificate or whether such resident teacher shall be required to serve as a resident teacher for one (1) additional school year. In the event a resident teacher serves a second year, the recommendation of the residency committee to the Board and the institution of higher education after the second year shall be for either certification or noncertification.

Upon recommendation from the residency committee for noncertification or an additional year in the residency program, such residency committee shall, upon request of the resident teacher, supply a list to the resident teacher of the reasons for such recommendation. The list of reasons shall remain confidential, except as otherwise provided by the resident teacher.

In the event a resident teacher is required to serve an additional year in the residency program, the resident teacher shall not be required to be under the supervision of the same residency committee, or any member of the committee, which supervised the resident teacher during the initial year in the program; and

5. In the event the committee recommendation to the Board and the institution of higher education is for certification, a residency committee shall also recommend a professional development program for the resident teacher, designed to strengthen the resident teacher's teaching skills in any area identified by the committee.

All resident years shall count toward salary, fringe benefit adjustments, career status and retirement.

E. Upon employment of a licensed teacher in a resident teacher position by a private or public provider of early childhood education programs pursuant to a contract as authorized in Section 11-103.7 of this title, the district board of education shall appoint the residency committee members, as prescribed in the Oklahoma Teacher Preparation Act. The residency committee members shall have the same duties as prescribed in subsection D of this section.

F. Nothing in this act shall be construed as requiring more than one (1) year of employment at the resident level before a standard certificate can be issued to a resident teacher.

The professional development program shall commence with the residency year and shall require continuing education throughout the career of a teacher.

G. For the 2003-04 school year, if the district board of education is unable to find a teacher willing to serve as a mentor teacher, the district may leave the position of mentor teacher on the residency committee unfilled. If the district leaves the position unfilled, the remaining members of the residency committee may carry out the duties of the committee. **(70-6-195)**

Section 180.15.1. Continuing Education in Mathematics.

A. It is hereby declared to be the intent of the Legislature to establish a continuing education program whereby teachers employed to teach mathematics may obtain certification in mathematics and teachers certified to teach mathematics in the state may take higher education courses in order to obtain the competencies needed to enable the teacher to successfully complete the subject area examinations and become certified to teach any of the core curriculum mathematics courses recommended by the American College Test. The program shall pay up to One Hundred Dollars ($100.00) per credit hour up to a maximum of twenty-four (24) credit hours for a teacher to take higher education courses in mathematics. Teachers required to gain certification as provided in Section 6-189.1 of this title shall be given priority in the funding for the continuing education program. The purpose of the program is to improve the knowledge and skills of teachers and to ensure that the children of the state are taught by professional educators, fully prepared in the area of mathematics.

B. Implementation of this section shall be contingent upon the appropriation of state funds by the Legislature for the specific purpose of implementing this section. Nothing in this section shall prevent the State Board of Education or a school district board of education from utilizing private, local, or federal funds to implement this section.

C. Implementation of this section shall be delayed until the current expenditure per pupil in average daily attendance in public elementary and secondary schools in unadjusted dollars for the 1998-99 school year or any school year thereafter for Oklahoma, as reported by the National Center for Education Statistics annually in the Digest of Education Statistics, reaches at least ninety percent (90%) of the regional average expenditure for that same year, and funds are provided. For purposes of this section, the regional average expenditure shall consist of the current expenditure per pupil in average daily attendance in public elementary and secondary schools in unadjusted dollars for each of the following states: Arkansas, Colorado, Kansas, Missouri, New Mexico, Oklahoma, and Texas, averaged together. By January 1 of each year, the State Board of Education shall report whether or not the ninety-percent expenditure level has been reached based on information reported annually in the Digest of Education Statistics by the National Center for Education Statistics. This section shall be implemented on July 1 after the first January 1 report verifies that the ninety-

percent expenditure level has been reached and funds have been provided for the specific purposes of this section. **(70-6-195.1)**

Section 180.15.2. Professional Development – Math.

A. Subject to the availability of funds, the Oklahoma Commission for Teacher Preparation shall develop and administer mathematics professional development programs which will be provided for any teacher who became licensed or certified to teach in elementary education or early childhood education prior to July 1, 2001, and is serving as a teacher in a public school in this state in kindergarten through third grade. The purpose of the professional development program shall be to improve the knowledge and skills of the teachers and to ensure that the elementary grade students of the state are taught by professional educators fully prepared in the area of mathematics.

B. Any professional development program offered to teachers pursuant to the provisions of this section shall:

1. Be scientifically research-based professional development; and

2. Meet state law requirements for professional development administered by the Commission.

C. The professional development program offered to teachers pursuant to the provisions of this section shall address both content skill and methodology, and may contain a technology component. **(70-6-195.2)**

Note: Enacted by HB 1918, Sec. 1 of the 2011 Reg. Sess.

Section 180.16. Contracts With Professional Development Centers.

A. The State Board of Education shall review all contracts with the professional development centers used for professional development purposes prior to entering into any contracts with such centers. The State Board of Education shall examine:

1. The purpose of the contract;

2. The expenditure of funds provided for in the previous year by the state to each center provided for in this section;

3. The budgeted salaries of employees and administrators of such centers; and

4. Any-other item the State Board of Education determines is necessary.

B. The State Board of Education shall submit an annual report to the Governor and Legislature by January 1 of each year, which gives the information specified in subsection A of this section for each individual center and which includes the following:

1. The purpose of the center;

2. The hours and days of operation of the center throughout the year;

3. The number of school districts actually served and the number of actual teachers by school district served;

4. The number and kinds of sponsored professional development activities and dates and any related performance evaluations;

5. All sources of funding and actual full-time-employees (FTE); and

6. Evidence of evaluation of services by users. **(70-6-196)**

Section 180.17. Applicable Licensing and Certification Requirements.

A. All students graduating from an accredited institution of higher education approved or accredited by the Oklahoma Commission for Teacher Preparation for the preparation of educational personnel on or after September 1, 1999, and seeking to enter the public education system as a teacher shall be subject to the assessment, certification and licensing procedures established in the Oklahoma Teacher Preparation Act. Except as provided for in subsection B of this section, all students graduating from an accredited institution of higher education prior to September 1, 1999, and seeking to enter the public education system as a teacher shall be subject to the assessment, licensing and certification requirements in effect before July 1, 1997.

B. Any person who graduates from an accredited institution of higher education prior to September 1, 1999, and seeks certification or endorsement subsequent to September 1, 1999, to teach a subject area which the teacher was not certified to teach prior to September 1, 1999, following completion of the required higher education shall be required to successfully complete the competency examination for such subject area prior to receiving such certification or endorsement. **(70-6-197)**

If individual has graduated from accredited institution of higher education before September 1, 1999, then individual is subject to assessment, licensing, and certification requirements in effect before July 1, 1997. *January 31, 2000 (AG Op. No. 00-6).*

Section 180.18. Rule Review.

On or before January 1, 1996, the State Board of Education shall review each of its rules pertaining to teacher education, testing, licensure and certification, entry-year and staff development for the purpose of repealing or modifying such rules or adopting new rules to be consistent with the provisions and purposes of the Oklahoma Teacher Preparation Act. **(70-6-198)**

Section 180.19. Oklahoma Commission for Teacher Preparation.

A. There is hereby created the Oklahoma Commission for Teacher Preparation. The Commission shall be composed of twenty-four (24) members, twenty of whom shall be voting members and four of whom shall be ex officio, nonvoting members. The twenty voting members shall serve staggered terms of three (3) years, except as otherwise provided, and shall be appointed as follows:

1. The Speaker of the House of Representatives shall appoint:

a. one public school teacher who is an employee of an Oklahoma public school district, who shall serve an initial term of two (2) years,

b. one lay person who each has at least one child who is a student in an elementary or secondary public school in this state,

c. one member of the Oklahoma State Regents for Higher Education who shall serve an initial term of two (2) years,

d. one member who is a principal of an Oklahoma public school who shall serve an initial term of one (1) Year, and

e. one lay person who has demonstrated long-term commitment to continual improvement of education;

2. The President Pro Tempore of the Senate shall appoint:

a. one public school teacher who is an employee of an Oklahoma public school district to serve an initial term of one (1) year,

b. one member of the State Board of Education who shall serve an initial term of one (1) year,

c. one lay person who has had some educational employment experience,

d. one member who is a public school superintendent of an Oklahoma public school district to serve an initial term of two (2) years, and

e. one lay person who has demonstrated long-term commitment to continual improvement of education;

3. The Governor shall appoint:

a. one member from a private Oklahoma institution of higher education who is the dean or director of an approved teacher education program who shall serve an initial term of one (1) year,

b. one member of the Oklahoma State Regents for Higher Education who shall serve an initial term of two (2) years,

c. one member of the State Board of Education,

d. one teacher from a technology center school district who shall serve an initial term of one (1) year,

e. one member from an institution of higher education in The Oklahoma State System of Higher Education who is on the arts and sciences faculty to serve an initial term of two (2) years,

f. one member from an institution of higher education in The Oklahoma System of Higher Education who is on the teacher education faculty,

g. two public school teachers who are employees of an Oklahoma public school district, and

h. two lay persons who have demonstrated long-term commitment to continual improvement of education;

4. The ex officio, nonvoting members shall include the State Superintendent of Public Instruction the Chancellor of Higher Education the Director of the Oklahoma Department of Career and Technology Education and the Secretary of Education or their designees.

B. 1. The members of the Commission shall serve without compensation, but shall be allowed actual and necessary expenses incurred in the performance of their duties, as provided in the State Travel Reimbursement Act.

2. The Commission shall hold meetings as necessary at a place and time fixed by the Commission. The first meeting of the Commission, which shall be held on or after July 1, 1995, shall be called by the Executive Director of the Commission. At the first meeting, the Commission shall select one of the members to serve as chair and another member to serve as vice-chair. At the first ensuing meeting in each fiscal year thereafter, the chair and vice chair for the ensuing year shall be elected. Special meetings may be called by the chair or by five members of the Commission by delivery of written notice to each member of the Commission. A majority of the voting members of the Commission shall be present at the meeting to constitute a quorum of the Commission.

3. The Commission may promulgate rules and set fees pursuant to the purposes of the Oklahoma Teacher Preparation Act.

4. The Commission shall assist the State Board of Education and the Oklahoma State Regents for Higher Education in conducting necessary reviews and Planning activities related to the purposes of this act. The Commission shall provide a Public forum for receiving comments and disseminating information to the public and the education community regarding the purposes of the Oklahoma Teacher Preparation Act. The Commission shall have the authority to make recommendations to and otherwise consult with the State Board of Education, the Oklahoma State Regents for Higher Education, the Oklahoma State Board of Vocational and Technical Education, the Education Oversight Board and the Legislature on matters which relate to the purposes of the Oklahoma Teacher Preparation Act.

5. The terms of the members shall begin July 1 of the applicable year.

C. Appointing authorities shall seek to provide a broad geographic representation of the members serving on the Commission.

D. The Oklahoma Commission for Teacher Preparation may contract for services or employ staff, as needed, to fulfill its duties and responsibilities. The Commission may enter into a contract which includes an agreement with a state agency, board or commission to provide administrative support to the Commission. The Commission may accept federal grants and other federal funds to carry out the purposes of the Commission.

E. Members of the Commission shall be exempt from the provisions of Section 6 of Title 51 of the Oklahoma Statutes, which prohibits the holding of any other office during the member's term of office on the Commission. **(70-6-199)**

Section 180.20. Professional Development Institutes.

A. Subject to the availability of funds, the Oklahoma Commission for Teacher Preparation shall have authority to develop and administer training for residency committees and training for professional development through professional development institutes. Included in the professional development institutes training shall be technology training. Professional development institutes shall be accepted by the State Board of Education for professional development purposes and shall be defined as continuing education experiences which consist of a minimum of thirty (30) clock hours. The institutes shall be competency-based, emphasize effective learning practices, require collaboration among participants, and require each participant to prepare a work product which can be utilized in the classroom by the participant. Any state professional development institutes administered by the Commission shall be chosen through a competitive bid process and if funds are available subject to peer review. The Commission, prior to offering any professional development institute, shall promulgate rules related to administering state professional development institutes.

B. The Oklahoma Commission for Teacher Preparation shall develop, offer and administer professional development institutes to train elementary school teachers in reading education and if funds are available, which may include but not be limited to grant, foundation, or other funds, to train middle school teachers in reading education. Funds appropriated for this purpose shall be used for the cost of developing, administering and contracting for the professional development institutes. When possible, certified reading specialists shall be included as consultants. All costs of the institutes shall be included in the contract price and no tuition or registration fee shall be collected from teachers attending the institutes. The institutes shall be offered by or through the Commission. Working in conjunction with the State Department of Education, the Commission shall develop a state plan for administration of such institutes and shall report on or before November 1 of each year to the Governor and the Legislature on the format of and participation in the institutes. The State Department of Education shall cooperate with and provide any information requested, including data available through the state student record system, to the Oklahoma Commission for Teacher Preparation as is necessary to carry out the provisions of this section.

C. Subject to the availability of funds, the Oklahoma Commission for Teacher Preparation shall:

1. Contract for an independent evaluation of the reading professional development institutes. The evaluation shall determine adherence to program requirements as provided in this section and the program's effectiveness in increasing teacher knowledge and student achievement; and

2. Provide continued support of the reading professional development institutes through ongoing teacher development at individual school sites. Funds may be used for the cost of mentor training, payment for substitute teachers, on-site facilitation, and any other costs necessary to ensure improved reading by students.

D. 1. For the purpose of implementing comprehensive reading reform and systemic change, the Oklahoma Commission for Teacher Preparation shall award one-year grants renewable for up to two (2) additional years to public schools that serve students in kindergarten through third grade. The grants will provide for:

a. a five-day initial professional development institute in elementary school reading for teachers of kindergarten through third grade, instructional leaders, and principals,

b. a three-day follow-up professional development institute in elementary school reading for teachers of kindergarten through third grade and instructional leaders, and

c. continued support through ongoing teacher development at school sites, including four (4) days of professional development for principals and literacy resource specialists, and six (6) days of on-site visits by a program consultant.

2. In order to qualify for a grant pursuant to this subsection, the following requirements shall be met:

a. at least eighty percent (80%) of the teachers of kindergarten through third grade at the school shall have demonstrated support for the training program provided pursuant to this subsection,

b. the principal shall ensure that all members of the leadership team and all teachers of kindergarten through third grade will participate in all phases of the training program,

c. the school district shall ensure that any new teacher of kindergarten through third grade or principal at the school will participate in all phases of the training program, and

d. the school district shall employ a literacy resource specialist for at least two (2) years after completion of the training provided in this subsection. One or more districts may share a literacy resource specialist upon approval of the Commission.

3. Any school which has been determined by the State Board of Education to be a school in need of improvement or a school that has not made adequate yearly progress in reading shall be given priority for receipt of a grant. Grants shall be awarded based on the amount of funds allocated to the Commission for Teacher Preparation for the purposes of this section. Funds may be used for payment for substitute teachers, program consultants, on-site facilitation, and literacy resource specialists.

4. For program evaluation purposes, each school awarded a grant pursuant to this subsection shall provide to the Commission student-level data and results of the reading assessments administered pursuant to the Oklahoma School Testing Program Act for the year prior to the grant award, for each year a grant is received by the school, and for three (3) years after completion of the program. If funds are not sufficient to award grants to all eligible applicants, schools may be placed on a waiting list for priority consideration for the following year's round of grant awards which shall be superior to the priority given to schools as provided in paragraph 3 of this subsection, if the school provides student data for the current year to the Commission as provided in this paragraph.

5. The professional development institutes in elementary reading provided pursuant to this section shall incorporate the requirements of the Reading Sufficiency Act.

E. As additional funds become available for such purpose, the Commission shall develop and offer professional development institutes in:

1. Mathematics for teachers in grades kindergarten through nine;

2. The use of technology in the classroom;

3. Training of residency committee members in teacher mentoring; and

4. Hands-on inquiry-based science for elementary teachers. **(70-6-200)**

Section 180.21. Joint Funding Plan.

Effective for the 1998 fiscal year, the State Board of Education, the Oklahoma State Regents for Higher Education, the State Board of Career and Technology Education and the Oklahoma Commission for Teacher Preparation shall annually prepare a joint funding plan for submission by September 1 of each year to the Office of State Finance and the Legislature which reflects the estimated state costs for the fiscal year of the entire teacher education, assessment, licensure and certification, residency and professional development system. The plan shall provide for the utilization of all financial resources from federal, state, local, and private sources and shall provide for the coordination of those resources to fund any related services. The individual components of the plan, as they relate to individual agencies, shall be incorporated annually into each affected agency's budget request in accordance with the provisions of Section 41.29 of Title 62 of the Oklahoma Statutes. **(70-6-201)**

Section 180.22. Teacher Competency Review Panel.

A. Beginning July 1, 1997, there shall be created a "Teacher Competency Review Panel" to make recommendations to the State Board of Education for the licensure and certification of people who have not graduated from an approved teacher education program in this state, or who have never held a standard teaching certificate in this state, or who are not currently certified to teach in another state. No person shall be certified to teach pursuant to the provisions of this section unless the person holds at least a baccalaureate degree from an accredited institution of higher education and has been assessed by and received a favorable recommendation from the Teacher Competency Review Panel.

B. The Panel shall evaluate the applicant's qualifications and career accomplishments and shall recommend to the State Board of Education whether the applicant should be licensed. No person shall be licensed to teach pursuant to this section unless the person has successfully completed the general education and subject area portions of the competency examination required in Section 6-187 of this title. Applicants who are licensed pursuant to this section shall receive certification upon successful completion of the professional education portion of the competency examination required in Section 6-187 of this title and upon satisfaction of other requirements as set by the State Board of Education.

C. Applicants for licensure or certification who do not receive a favorable recommendation from the Panel may appeal to the State Board of Education.

D. The State Board of Education shall adopt rules setting out the procedures for operation of the Panel and appeal to the State Board.

E. The members of the Teacher Competency Review Panel shall be selected by the State Board of Education from a list of candidates supplied by the Oklahoma Commission for Teacher Preparation. The Teacher Competency Review Panel shall consist of seven (7) members.

F. The State Board of Education shall assess candidates seeking certification to teach through the recommendation of the Teacher Competency Review Panel fees for the service in an amount sufficient to fully fund the duties of the Teacher Competency Review Panel. **(70-6-202)**

Section 180.22.1. Appeal of Review Panel Recommendation.

Applicants for licensure or certification who did not receive a favorable recommendation from the Teacher Competency Review Panel, including applicants who did not receive a favorable recommendation prior to the effective date of this act, shall be entitled to appeal the Panel's decision to the State Board of Education. The State Board of Education is authorized to hear such appeals immediately upon the effective date of this act.

This section shall become effective contingent upon the enactment of Enrolled Senate Bill No. 388 of the 1st Session of the 48th Oklahoma Legislature. **(70-6-202.1)**

Sections 180.23. Right to Hearing.

Any resident teacher not recommended for certification, after completing two (2) years in the residency program shall have the right to a hearing before the State Board of Education to review the decision of the residency committee. Upon review, the State Board of Education may affirm, overrule, or modify the decision of the committee. Modification of the committee decision may include, but is not limited to, requiring the resident teacher to complete an additional year in a residency program, additional training, or other measures. The hearing shall be conducted as an individual proceeding pursuant to the Oklahoma Administrative Procedures Act, Section 250.1 et seq of Title 75 of the Oklahoma Statutes. **(70-6-203)**

Section 181.1. Education Leadership Oklahoma Act.

This act shall be known and may be cited as the "Education Leadership Oklahoma Act". **(70-6-204)**

Section 181.2. Definitions.

For purposes of the Education Leadership Oklahoma Act:

1. "Salary bonus" means additional monies granted to teachers maintaining National Board certification subject to the availability of funds specifically appropriated by the Legislature to the State Board of Education for that purpose;

2. "Certification" means National Board certification;

3. "Commission" means the Oklahoma Commission for Teacher Preparation;

4. "National Board" means the National Board for Professional Teaching Standards;

5. "National Board certification" means National Board certification as provided by the National Board for Professional Teaching Standards; and

6. "Teacher" means a classroom teacher, counselor, or librarian employed by a public school district on a full-time basis. **(70-6-204.1)**

Section 181.3 Purpose.

A. Subject to the availability of funds, the Oklahoma Commission for Teacher Preparation and the State Board of Education are authorized to establish the Education Leadership Oklahoma program.

B. The purposes of the Education Leadership Oklahoma program are:

1. Provide teachers throughout the state information about National Board certification and the Education Leadership Oklahoma program scholarships and services;

2. Provide technical assistance and National Board certified mentors to all teachers seeking National Board certification upon request;

3. Provide scholarships, pursuant to the Education Leadership Oklahoma Act and Oklahoma Commission for Teacher Preparation rules, for teachers seeking National Board certification;

4. Provide a bonus to teachers who achieve National Board certification pursuant to the Education Leadership Oklahoma Act and State Board of Education rules;

5. Reward teachers who achieve National Board certification without the financial support of the Education Leadership Oklahoma program by awarding them the application fee and the amount of the scholarship given to Education Leadership Oklahoma participants pursuant to this section and commission rules; and

6. Provide recognition to National Board certified teachers.

C. Except as otherwise provided for in subsection P of this section, to fulfill the objectives of the Education Leadership Oklahoma Act, the Oklahoma Commission for Teacher Preparation shall:

1. Inform teachers of the Education Leadership Oklahoma program and the scholarships and services it provides to teachers seeking National Board certification, emphasizing recruiting efforts toward teachers at high-poverty schools, low-achieving schools and in counties with the lowest percentage of teachers who have achieved National Board certification;

2. Collect and review applications to the scholarship program from interested teachers;

3. Establish an applicant review committee for the purpose of identifying scholarship recipients pursuant to the Education Leadership Oklahoma Act for the Education Leadership Oklahoma program; and

4. Ensure that all scholarship recipients, alternates, and teachers seeking National Board certification independently receive adequate information regarding the level of commitment required to acquire National Board certification.

D. The applicant review committee shall:

1. Consist of:

a. five classroom teachers appointed by the State Board of Education, at least one of whom shall be a National Board certified teacher, if available,

b. five classroom teachers appointed by the Oklahoma Commission for Teacher Preparation, at least one of whom shall be a National Board certified teacher, if available,

c. three classroom teachers appointed by the Oklahoma State Regents for Higher Education, at least one of whom shall be a National Board certified teacher, if available, and

d. a chair to be designated by the Executive Director of the Oklahoma Commission for Teacher Preparation from among the appointed members; and

2. Except as otherwise provided for in subsection P of this section, select up to four hundred teachers each year, of whom a minimum of twenty-five percent (25%) teach at schools on the school improvement list as determined by the State Board of Education pursuant to the No Child Left Behind Act or schools with more than fifty percent (50%) of students who qualify for the free and reduced price lunch program, and the appropriate number of alternates, who:

a. have demonstrated a commitment to excellence in teaching,

b. meet all eligibility requirements for potential certification as established by the National Board for Professional Teaching Standards,

c. are employed in an Oklahoma public school, and

d. meet other requirements of the Commission.

E. Subject to the availability of funds appropriated by the Legislature for the purposes of this subsection and except as otherwise provided for in subsection P of this section, the application fee for National Board certification shall be paid for scholarship recipients by the Commission, and scholarship recipients shall be provided a scholarship in the amount of Five Hundred Dollars ($500.00) to cover other expenses associated with obtaining National Board certification.

F. It is the intent of the Legislature that the Oklahoma Commission for Teacher Preparation contract with Southeastern Oklahoma State University to establish Education Leadership Oklahoma program training in higher education teacher preparation programs in the state to assist teachers in meeting the requirements to obtain National Board certification.

G. Except as otherwise provided for in subsection P of this section, all teachers seeking National Board certification shall be eligible to participate in Education Leadership Oklahoma program training to assist them in meeting the requirements of the National Board certification process, free of charge.

H. The Oklahoma Commission for Teacher Preparation shall promulgate rules for the selection of scholarship recipients, the selection and utilization of alternates, the payment and reimbursement of application fees, and the issuance of scholarships.

I. Subject to district board of education policy or collective bargaining agreement, additional professional leave days may be granted to teachers seeking National Board certification for National Board certification portfolio development. During the two (2) days of the additional professional days granted to teachers for National Board certification portfolio development, a substitute teacher shall be provided by the school district at no cost to the teacher.

J. Except as otherwise provided for in subsection P of this section, the State Board of Education shall provide all teachers who attain National Board certification a bonus in the amount of Five Thousand Dollars ($5,000.00) annually

no later than January 31 for as long as they maintain their National Board certification and are teaching in the classroom full-time in an Oklahoma public school. No school or school district shall be liable for payment of bonuses pursuant to this section.

K. The bonus shall not be included in the calculation of the teacher's salary for purposes of meeting the district or statutory minimum salary schedule or for purposes of compensating Oklahoma Teachers' Retirement System contributions or benefits.

L. The State Board of Education shall promulgate rules for the provision of the bonus pursuant to this section to include, but not be limited to, a process by which a National Board certified teacher will verify that:

1. The National Board certification has not lapsed; and

2. The teacher is still a full-time teacher.

M. It is the intent of the Legislature that the Oklahoma State Regents for Higher Education incorporate the National Board certification portfolio development into all programs in education leading to a master's level degree.

N. Upon implementation of this subsection as provided for in subsection O of this section, the State Board of Education shall provide all teachers who attain National Board certification a bonus in the amount of Seven Thousand Dollars ($7,000.00) annually no later than January 31 for as long as they maintain their National Board certification and are full-time teachers in an Oklahoma public school. No school or school district shall be liable for payment of bonuses pursuant to this section. Upon implementation, the bonus provided for in this subsection shall replace the bonus provided for in subsection J of this section.

O. Implementation of subsection N of this section shall be contingent upon the appropriation by the Legislature of state funds for the specific purpose of implementing subsection N of this section. Nothing in this section shall prevent the State Board of Education or a school district board of education from utilizing private, local, or federal funds to implement subsection N of this section.

P. 1. Except as otherwise provided, the Oklahoma Commission for Teacher Preparation shall not accept any applications for the Education Leadership Oklahoma program, award scholarships pursuant to the Education Leadership Oklahoma Act or pay the National Board certification application fee for scholarship recipients after June 30, 2010, through June 30, 2012. The Commission may pay any scholarship amounts or pay the National Board certification application fees incurred after June 30, 2010, for any teacher selected for the Education Leadership Oklahoma program before June 30, 2010.

2. Except as otherwise provided, the State Board of Education shall not provide a bonus in the amount of Five Thousand Dollars ($5,000.00) as authorized in subsection J of this section beginning June 30, 2010, through June 30, 2012, to any teacher who attains National Board certification after June 30, 2010, through June 30, 2012. The Board shall provide a bonus to any teacher who attains National Board certification after June 30, 2010, if the teacher was selected for the Education Leadership Oklahoma program before June 30, 2010, or the teacher has submitted an application for National Board certification to the National Board for Professional Teaching Standards before June 30, 2010. **(70-6-204.2)**

> When the State Board of Education did not provide the full amount of national board certified teachers' bonuses, School Districts had to pay the employer's withholding tax from the bonus allocations since the State was responsible for paying these taxes under federal tax law. *Bailey v. Indep. Sch. Dist. No. I-29*, 2011 OK 37.

Section 181.4. Education Leadership Oklahoma Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Commission for Teacher Preparation to be designated the "Education Leadership Oklahoma Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies appropriated or transferred to the fund by the Legislature. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma Commission for Teacher Preparation to provide assistance and scholarships for candidates seeking National Board certification. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment. **(70-6-204.3)**

Section 181.5. Oklahoma National Board Certification Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the State Board of Education to be designated the "Oklahoma National Board Certification Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies appropriated or transferred to the fund by the Legislature. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the State Board of Education to provide an annual bonus for those teachers possessing National Board certification. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment. The State Board of Education shall transfer all funds deposited into the Oklahoma National Board Certification Revolving Fund for the fiscal year ending June 30, 1998, to the Education Leadership Oklahoma Revolving Fund, created in Section 6-204.3 of this title, less expenditures and encumbrances as adjusted by transfer on July 1, 1998. **(70-6-204.4)**

Section 181.6. Professional Development Institutes Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Commission for Teacher Preparation to be designated the "Professional Development Institutes Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies appropriated or transferred to the fund by the Legislature. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma Commission for Teacher Preparation to develop and administer professional development programs for teachers and administrators and training for residency committee members. Expenditures shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment. **(70-6-204.5)**

Section 181.7. Study of Licensing Requirements School Psychologists and Speech Pathologists.

The State Board of Education and the Oklahoma Commission for Teacher Preparation shall conduct a joint study to compare the licensing requirements for school psychologists and speech pathologists to the National Board teacher certification requirements established by the National Board for Professional Teacher Standards. The Board and the Commission shall submit a report outlining their findings, including the potential cost of including school psychologists and speech pathologists in the Education Leadership Oklahoma Program, to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate by December 31, 2002. **(70-6-205)**

Section 182. Salary Bonus for School Psychologists, Speech-Language Pathologists and Audiologists.

A. Subject to the availability of funds, the State Board of Education shall provide an annual salary bonus in the amount of Five Thousand Dollars ($5,000.00) no later than January 31 of each year to the following employees of public school districts:

1. Any school psychologist who has been designated as a Nationally Certified School Psychologist by the National School Psychology Certification Board; and

2. Any speech-language pathologist or audiologist who holds a Certificate of Clinical Competence awarded by the American Speech-Language Hearing Association.

B. The State Board of Education shall adopt rules for the provision of the bonus pursuant to this section to include, but not be limited to, a process by which a nationally certified school psychologist, speech-language pathologist and audiologist may verify that:

1. The individual is still employed by a school district;

2. The certification required in subsection A of this section has been attained and has not lapsed; and

3. The individual is licensed to practice in this state.

C. An individual who qualifies for the bonus pursuant to this section and who is employed by a school district on less than a full-time basis, shall receive a pro-rated bonus based on the proportionate equivalency to full-time employment.

D. No school or school district shall be liable for payment of bonuses pursuant to this section. The bonus shall not be included in the calculation of salary for purposes of meeting the district or statutory minimum salary schedule or for purposes of calculating Teachers' Retirement System of Oklahoma contributions or benefits.

E. The amount of the salary bonus pursuant to subsection A of this section shall be increased to Seven Thousand Dollars ($7,000.00) upon implementation of subsection N of Section 6-204.2 of this title. **(70-6-206)**

Section 183. Revolving Fund for Psychologists, Speech-Language Pathologists and Audiologists.

There is hereby created in the State Treasury a revolving fund for the State Board of Education to be designated the "Oklahoma School Psychologist, Speech-Language Pathologist, and Audiologist National Certification Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies appropriated or transferred to the fund by the Legislature. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the State Board of Education to provide an annual bonus for individuals meeting the requirements of Section 1 of this act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment. **(70-6-206.1)**

Section 184. Oklahoma Mathematics Improvement Program.

A. The State Board of Education shall establish the Oklahoma Mathematics Improvement Program. The purpose of the program is to improve student mastery of the Priority Academic Student Skills (PASS) for sixth-grade mathematics through Algebra I by enhancing sixth-, seventh- and eighth-grade public school teachers' mastery of the subject matter content and process skills.

B. For purposes of this section, "middle-level mathematics" means the Priority Academic Student Skills for sixth- through eighth-grade mathematics and Algebra I.

C. Each sixth-, seventh-, or eighth-grade public school teacher of a middle-level mathematics course who completes a professional development program approved by the State Board of Education, as authorized in subsection E of this section, shall receive a stipend in the amount of One Thousand Dollars ($1,000.00) if, prior or subsequent to completion of the professional development program, the teacher successfully completes the middle-level/intermediate mathematics Oklahoma Subject Area Test administered by the Oklahoma Commission for Teacher Preparation. The State Board of Education shall provide the stipend to qualifying teachers who meet the requirements of this section. The stipend shall not be included in the calculation of the teacher's salary for purposes of meeting the district or statutory minimum salary schedule or for purposes of calculating Teachers' Retirement System of Oklahoma contributions or benefits.

D. The State Department of Education shall issue a request for proposals on or before October 1, 2005, seeking applications for the Oklahoma Mathematics Improvement Program. The State Department of Education shall review the applications for compliance with the established requirements.

E. The State Board of Education may approve programs that meet the requirements set forth in this subsection. Each participating teacher shall take a preassessment to establish current subject matter knowledge, and, based on the results of the preassessment, the teacher will participate in one of the three programs listed below:

1. Mathematics academies consisting of a minimum of forty (40) contact hours of training and twenty (20) contact hours of follow-up training through lesson study with identified mathematics specialists on-site and through video technology.

The mathematics academies shall incorporate both content knowledge and process knowledge that shall be modeled for teachers in the areas of problem-solving, reasoning, and critical thinking as applied to the mathematical concepts in

PASS. The ultimate goal of the mathematics academies shall be to significantly increase the number of children becoming proficient in mathematics as demonstrated on assessments administered pursuant to the Oklahoma School Testing Program Act. The mathematics academies shall be accepted for professional development purposes and shall be defined as continuing education experiences that consist of a minimum of forty (40) clock hours. The mathematics academies shall be designed to provide instruction that includes peer coaching;

2. Other programs including customized higher education courses and/or on-line courses similar in scope and nature to those described in this subsection designed to improve middle school mathematics knowledge including Algebra I, as approved by the State Board of Education; and

3. Small learning community lesson studies facilitated by a mathematics coach and utilizing the Internet and video technology, as approved by the State Board of Education.

F. On or before December 15, 2005, the State Department of Education shall forward applications that the Department has determined meet the requirements of this section to the State Board of Education. On or before February 1, 2006, the Board shall award, through a competitive bid process, one or more grants for professional development programs approved by the Department.

G. The State Board of Education shall contract for independent evaluations of programs funded pursuant to this section.

H. Beginning June 30, 2006, and each year thereafter for which the Oklahoma Mathematics Improvement Program is funded, the State Board of Education shall prepare and submit a report to the Legislature and the Governor containing:

1. Descriptions of professional development programs approved and funded through the Oklahoma Mathematics Improvement Program;

2. Number and amount of grants awarded;

3. Number of teachers completing approved programs;

4. Number of teachers successfully completing the Oklahoma Subject Area Test for middle level/intermediate mathematics after completion of a program created pursuant to this section;

5. Amount of stipends paid to teachers pursuant to this section; and

6. Student achievement data for students in classes taught by teachers completing one of the program options authorized pursuant to this section. **(70-6-207)**

Section 185. Oklahoma Commission For Teacher Preparation.

A. The Oklahoma Commission for Teacher Preparation is authorized to establish the Inner City Schools Rescue program. The purpose of the program shall be to recruit and train licensed or certified teachers to work in inner city schools and to provide technical assistance and support to those teachers who participate in the program and become employed in an inner city school.

B. For purposes of this section, an inner city school shall mean a school that is on the school improvement list as determined by the Commission pursuant to the No Child Left Behind Act or where ninety-five percent (95%) or more of the students enrolled in the school qualify for the free and reduced lunch program.

C. To fulfill the objectives of the Inner City Schools Rescue program the Commission shall:

1. Inform teachers of the program;

2. Collect and review applications for the program from interested teachers; and

3. Establish an applicant review committee to identify participants for the program.

D. Each year the Commission shall select a certain number of teachers, as determined by the Commission, who have demonstrated a commitment to excellence in teaching and to working with at-risk students in the inner city.

E. The Commission shall promulgate rules to implement the provisions of this section. **(70-6-210)**

Section 186. (Reserved)

Section 187. Boundaries - Petition or Resolution to Change Election.

A. Except as otherwise provided for in Section 7-105 of this title for conditional consolidated school districts, the territory comprising all or part of a school district may be annexed to another school district or to two or more districts, when approved at an annexation election called by the State Superintendent of Public Instruction, but except as provided in subsection B of this section, an annexation election may not be held unless the boards of education of the affected districts concur therein. Provided, that such concurrence of the boards of education affected shall not be required in cases of mandatory annexation by the State Board of Education:

1. In pursuance of a petition for annexation signed by a majority of the school district electors in the territory proposed to be annexed, hereinafter referred to as the area affected, said majority being applied to the highest number of voters voting in a regular school district election in the district in the preceding five (5) years as determined by the secretary of the county election board, who shall certify the adequacy of the number of signatures on the petition as provided in this section; or

2. In pursuance of a resolution adopted by the board of education of the district in which the area affected is situated.

B. An annexation election shall be called by the State Superintendent of Public Instruction without the concurrence of the board of education of the school district which is proposed to be annexed, upon the filing of a petition with the State Superintendent of Public Instruction for annexation that is signed by a majority of the school district electors in the territory proposed to be annexed, hereinafter referred to as the area affected, said majority being applied to the highest number of voters voting in a regular school district election in the district in the preceding five (5) years as determined by the secretary of the county election board, who shall certify the adequacy of the number of signatures on the petition. The petition shall contain such information as the State Superintendent of Public Instruction may require.

C. Annexation elections held pursuant to this section shall be conducted pursuant to the following procedures:

1. Such election shall be held not less than sixty (60) days nor more than ninety (90) days after the State Superintendent of Public Instruction receives such petition, at some public place in the school district in which the area affected is situated, between the hours of 7 a.m. and 7 p.m., and notice thereof shall be given by the State Superintendent of Public Instruction in the same manner as notice of special elections of the school district electors of school districts is given, provided, that the State Superintendent of Public Instruction shall not be required to call an election for the purpose of annexing a part of a school district more than once during any twelve-month period. Such elections shall be conducted by the county election board;

2. The annexation shall be approved by a majority of the school district electors voting at such election:

a. of an entire school district, or

b. if a majority of the members of a board of education of a school district losing the territory concur with the petitioners, or resolution, only the legal voters of the area so affected shall be eligible to vote at such election, or

c. if the affected area is part of a school district with thirty thousand (30,000) or more average daily membership, if the boundaries of the affected area is not contiguous with the boundaries of the rest of the district, and if the boundary of the noncontiguous affected area is a least two (2) miles from the nearest boundary of the rest of the district, only the legal voters of the area so affected shall be eligible to vote at such election. Provided, if there is an incorporated city located wholly within the separate noncontiguous affected area, the annexation election being held shall not effect the area within the boundaries of the incorporated area unless a majority of the school district electors within the boundaries of the incorporated area also file a petition requesting annexation as required in subsection B of this section.

If the area proposed to be annexed constitutes less than two percent (2%) of the total area of the school district in which such area is located, and there are no qualified electors residing in such area, no election shall be held. In such instance the board of education of the school district wherein the area proposed to be annexed is located and the board of education of the school district to which such area is proposed to be annexed shall each adopt a resolution approving such annexation and shall transmit certified copies of both resolutions to the State Superintendent of Public Instruction who shall, within five (5) days after receiving copies of such resolutions, make an order declaring the annexation as approved in the resolutions. Copies of the annexation order shall be transmitted to the State Board of Education, Oklahoma Tax Commission, county clerk, county treasurer, county assessor and to the boards of education of the school districts involved;

3. The annexation shall be approved by a majority of the school district electors of the area affected, voting at such election, if the area affected is an area within a school district in which, as a result of condemnation proceedings by the federal government, a majority of the pupils of said area have attended school, for at least one school term, in the district to which the petition requests annexation;

4. If the annexation of an entire district is approved, as provided for in this section, the State Superintendent of Public Instruction shall, within five (5) days after such election, issue an order declaring the annexation as requested in the petition or resolution for annexation to the State Board of Education, Oklahoma Tax Commission, county clerk, county treasurer and county assessor in each county in which any of the territory of the disorganized district lies, but the annexation shall not become effective until the time for filing an appeal, as hereinafter provided, has expired. In the event a majority of the electors voting at such election do not vote for the annexation, the State Superintendent of Public Instruction shall, within five (5) days after such election, issue an order denying the annexation to the State Board of Education, Oklahoma Tax Commission, county clerk, county treasurer and county assessor in each county in which any of the territory of the disorganized district lies. Within ten (10) days after the order of the State Superintendent of Public Instruction is issued, twenty-five percent (25%) of the school district electors who were eligible to vote at the annexation election may appeal to the district court of the county in which the territory proposed to be annexed, or the largest part thereof if such territory lies in more than one county, is situated, and thereafter all proceedings shall be stayed until the district court has rendered judgment. The proceedings shall be given precedence over all other civil matters. In the event the court issues a final order upholding a partial annexation, the effective date of said partial annexation shall be July 1 following the final order. All pending annexation proceedings are hereby exempted from this act. The State Board of Education shall be required to change the boundary lines as described in the declaration after all litigation has expired;

5. Upon the effective date of the annexation of an entire school district to one or more school districts, the board of education of the school district whose territory was annexed shall be declared abolished by the State Superintendent of Public Instruction. If a school district to which the territory was annexed currently has a five-member board of education, that school district board of education shall have the option of forming a seven-member board of education pursuant to the provisions of Section 5-107A of this title upon the effective date of the annexation; and

6. If an independent district annexes to an elementary district not maintaining a high school, both boards of education are abolished. The Governor shall appoint three members of the newly formed district to the board of education and these members shall appoint the remaining two members. **(70-7-101)**

District court did not have authority to designate different school district boundary line based on equitable considerations. *Spencer Development Co. v. ISD No. I-89*, 741 P.2d 477 (Okla. 1987)

Presentation of petition requesting annexation is not sufficient to require annexation. Election must be called and held to properly effect annexation. *August 24, 1988 (AG Op. No. 88-37)*

Section 188. Mandatory Annexation or Consolidation Procedures.

A. The State Board of Education shall be authorized to promulgate rules and regulations regarding the procedures necessary to accomplish mandatory annexation or consolidation, as provided by and within the requirements of the provisions of Sections 2, 8, 9, 10, 11, 12, and 13 of this act, and as otherwise providing by law.

B. In any case where mandatory annexation of a school or school district is recommended by the State Department of Education, the Department shall notify, in writing, the board of education of the school district involved. Upon receipt of the notification, the school district board shall have fifteen (15) days to request an opportunity to appear before the State Board of Education. If the school district board fails to request an opportunity to appear, the State Board shall proceed without further notice or delay, to conclude the matter. If an opportunity to appear is requested by the school

district board, the State Board shall decide the issues after hearing from representatives of the school or school district and the State Department and shall make a final determination on the recommendation of the Department. **(70-7-101.1)**

Section 189. Annexation or Disorganization - Assumption of Bonded Indebtedness.

A. The component parts (or part) of the district annexed, whether the annexation is or was voluntary or mandatory under the provisions of this or any prior act, shall assume their full proportion of all legal bonded indebtedness of the district or districts to which they are or were annexed, and the district or districts to which they are or were annexed shall likewise assume a full proportion of all legal bonded indebtedness of the district annexed, or ratable proportion in ratio to the assessed valuation to the part annexed.

B. Provided, that if the area affected is or has been annexed under the provisions of this article to a school district (hereinafter referred to as the "first" district) having a bonded indebtedness at the time of said annexation, and if at the time of said annexation said area affected is or was not liable for any bonded indebtedness, and if within four (4) calendar months or less after said annexation all or any portion of the territory of the area affected is or has been detached from the first district to become a part of some other school district (hereinafter referred to as the "second" district) then:

1. If the detachment of said territory occurs in any fiscal year after the effective date of this subsection, and before the certification of the budgets and levies of the first district for said fiscal year to the State Auditor and Inspector, neither the said detached territory nor the second district shall have any liability for the payment of any part of the bonded indebtedness of the first district which existed when the area affected was annexed to the first district; or

2. If the detachment of said territory occurs in any fiscal year after the effective date of this subsection, and after the certification of the budgets and levies for said fiscal year of the first district to the State Auditor and Inspector, the said detached territory shall continue to bear its share of the bonded indebtedness of the first district as prescribed by subsection A of this section for the remainder of said fiscal year, but the second district shall not be liable for any part of the bonded indebtedness of the first district which existed at the time of the annexation of the area affected to the first district; and after the beginning of the next succeeding fiscal year neither the said detached territory nor the second district shall have any liability for any of the bonded indebtedness of the first district which existed at the time the area affected was annexed to the first district. **(70-7-103)**

Section 190. Division of Property - Debts and Obligations.

A. In case the area affected comprises an entire school district, and all of such area is annexed to only one other district, the district to which it is annexed shall become the owner of all the property and other assets of the disorganized district and shall be liable for the current debts and other obligations of such disorganized district, and said district shall also acquire title to and provide for permanent custody of all individual scholastic and other permanent records relating to each pupil who was previously enrolled in the annexed district.

B. In case the area affected comprises an entire school district, and is annexed to two or more districts, then the current debts or obligations and property and other assets of the disorganized district shall be divided by agreement between the boards of education of the annexing districts, and the board of education of either of the annexing districts may purchase any such property or assets to effect a just division. If the boards of education are unable to agree, the matter shall be decided by the State Board of Education, and its decision shall be final.

C. In case the area affected is not an entire school district, the district to which the annexation is made shall not acquire any of the property or assets of the district from which the area affected is detached, except that any school building or buildings located in the affected area shall become the property of the district to which the affected area is annexed and all obligations pertaining thereto shall become the responsibility of the annexing district.

D. If any mandatory or voluntary annexation made under the provisions of this article shall occur after the election on school district levies for the ensuing fiscal year and before the tax levies of the ensuing year have been made and certified, the operating and building levies authorized for the annexing district shall be the levies for all the said district after such annexation. All mandatory or voluntary annexations made and ordered subsequent to the certification of the budgets and levies to the State Auditor and Inspector shall be forthwith effective regardless of any variation in such levies; and the budgetary assets of the annexed district or districts theretofore so certified as unexpended and unencumbered shall be merged by supplementary procedure with the budgetary assets of the annexing district.

E. In case the area affected is annexed to two or more districts or the area affected is not an entire school district, the individual scholastic and other permanent records relating to each pupil enrolled at the time of annexation shall be transferred to the respective districts where said pupils are transferred. All other individual scholastic and other permanent records relating to pupils in said areas or entire districts affected shall be filed with the county clerk of the county where supervision of the annexed school district is located. **(70-7-104)**

Board of education of dissolved district is without authority to transfer property of district after its annexation to another district. *September 24, 1979 (AG Op. No. 79-236)*

The current obligations of the annexed district shall be divided by agreement between the boards of education of the annexing districts. And if the boards of education are unable to agree, the matter shall be decided by the State Board of Education, which decision shall be final. *June 21, 1976 (AG Op. No. 76-224)*

Section 191. Consolidation - Studies - Petition - Election.

A. Two or more school districts may, whether adjacent or not adjacent, be consolidated into a single school district in accordance with standards, rules and procedures to be determined by the State Board of Education. When the consolidation of two or more school districts is proposed, the State Board of Education shall conduct such studies of the populations, wealth, terrain, trade areas and other factors as may be necessary to determine the location of boundaries and the size of a proposed district which will most nearly ensure an efficient and economical administrative unit. The State Board of Education shall furnish the boards of education of the school districts which might be involved information and advice as to where the boundaries and what the size of the proposed new district should be. Nothing herein shall be construed to prevent the inclusion within a school district of territory lying within the boundaries of two or more counties.

B. Ten percent (10%) of the qualified school electors in any district may petition the board of education of such district to request such information, or a board of education of such district may on its own initiative ask for information and advice from the State Board of Education on the educational advantages and disadvantages of proposed consolidation to the children and residents of the area which might be affected. Upon the receipt of such a petition, the local board of education shall request the services of the State Board of Education and shall notify the boards of education in adjacent school districts that such a request has been made. The State Board of Education may on its own initiative make the study herein authorized of any area of the state and direct the board of education of such school districts as might be involved to set into operation in their districts the procedure for determining what, if any, consolidation should be carried on in the area under study.

C. Any rules or procedures which the State Board of Education may prescribe for consolidation of school districts shall include the opportunity for the qualified school electors in the school districts involved to express their wishes through a majority vote of the school electors in the entire territory involved.

D. Prior to an election for consolidation, the boards of education of the school districts involved may develop a plan which shall set forth the actions to be taken during and after consolidation. The plan of action shall include agreements relating to school site closing, disposition and utilization of property and equipment and such other agreements as may be necessary to facilitate the consolidation of the school districts. The plan of action shall also include provisions related to the technology center school district the newly formed district will be a part of which are consistent with the State Board of Career and Technology Education rules. The plan shall be placed on a separate ballot and voted on by the qualified school electors of each district at the time of the consolidation election. Both the plan and consolidation questions must be approved by a majority vote for the plan to take effect. The plan shall be binding on the board of education of the newly formed district for at least three (3) years; provided, any provisions related to the expenditure of appropriated money shall not be binding beyond the current fiscal year. The newly formed district may alter or disregard the plan only if there is a significant change in circumstances, including a significant drop in revenue to the district or in student enrollment.

E. Two or more school districts may be consolidated into a single school district on a conditional basis. If the voters approve conditional consolidation of the school districts at an election for such purpose in accordance with the procedures set forth in this section, the newly formed school district shall be considered consolidated and shall go through the same procedure and meet the same requirements as any consolidated school district. Under a conditional consolidation plan, any subsequent decision to consolidate the new school district or annex all or part of the new school district shall first be approved by a majority of the electors, voting at such election, or each of the original school districts. If one or more of the original school districts disapproves the subsequent consolidation or annexation plan, the

plan shall be approved and thereafter, any further consolidation or annexation shall be subject to approval of the electors of all of the school districts as a whole. The original school district shall mean only the districts which independently voted to join the conditionally consolidated district.

F. An election for such purpose shall be held either upon:

1. A petition for consolidation or conditional consolidation, signed by forty percent (40%) of the school district electors of each school district included in the proposed consolidation, or conditional consolidation said percentage being applied to the highest number of voters voting in a regular school election in the district in the preceding five (5) years as determined by the secretary of the county election board, who shall certify the adequacy of the number of signatures on the petition; or

2. The concurrence of the boards of education of the school districts included in the proposed consolidation or conditional consolidation, as shown by a resolution adopted by each board. The election shall be called by the State Board of Education and conducted in accordance with the general election laws of this state. Any vote to consolidate two or more districts, shall require a majority vote of those voting in each school district involved. When such a majority vote is in favor of consolidation or conditional consolidation, the State Board of Education shall declare the participating school districts dissolved and the new school district established, and the newly formed district shall thereupon be governed by the provisions of the Oklahoma School Code.

G. The State Superintendent of Public Instruction or designee shall convene the members of the boards of the districts forming the new district, who shall be given the opportunity of selecting from among themselves the initial board of education for the new district, selecting the number of members and designating the initial terms of service of each as required to conform to law; provided, the members convened shall have the option of forming a seven-member board pursuant to the provisions of Section 5-107A of this title rather than a board of the size otherwise provided by law and shall have the option of temporarily increasing the number of board positions for the new district by two positions per consolidating district for the first two (2) years following consolidation. The temporary positions will be filled by appointment by the board. The temporary board positions shall be abolished two (2) years from the effective date of consolidation. Within ten (10) days following the declaration of establishment of the new district, the State Superintendent or designee shall declare the agreement or shall declare that such agreement has not been reached, in which case persons serving as members of the board of education of the participating district having the largest number of enumerated children as shown by the last regular enumeration shall serve as members of the board of education of the newly formed district for the terms for which they were elected and until their successors have been duly elected or appointed and have qualified.

H. All liabilities, assets, powers and duties of the participating districts shall become the responsibility of the new school district, which district shall be the legal successor in every respect to the school districts participating in the consolidation or conditional consolidation in accordance with law. **(70-7-105)**

Section 192. Buildings - Rented, Moved, or Sold.

No building or appendages thereto of any school district that has been annexed to another school district or districts shall be rented, moved or sold by the board of education of the annexing district or districts without the approval of a majority of the school district electors in the annexed district voting on the proposition, if such building is being used at least once each ninety (90) days for public gatherings. Provided, that the board of education of the annexing district acquiring such buildings may require persons or groups using such building and appendages to pay the cost of maintenance, including insurance, of such building and appendages. **(70-7-106)**

> An annexing school district receives title to the real property of an annexed school district and is then empowered to convey the real property to any entity, if no longer needed and if done by public sale or bid. Such a conveyance must be for reasonable consideration. The only exception to the public sale/public bid/reasonable consideration requirements is found in the context of consolidation, not annexation. Pursuant to this exception, consolidated school districts may convey real property to a local political subdivision without consideration and without the necessity of a public sale or public bid. *March 29, 1993 (AG Inf. Op. No. 92-604)*
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> Legal title to property of annexed district vests in annexing district, subject to right of voters of annexed district to require board of education of annexing district to transfer title with reversionary clause for community use within one year. *AG Op. October 24, 1968*

Proceeds of insurance policy covering destruction of annexed district's building used as community center belong to annexing district and cannot be used to erect another building for use as a community center exclusively. *AG Op. February 12, 1964*

Heirs of grantors of schoolhouse site with reversionary clause can sue to quiet title to property if school is not maintained on property. *Craig v. Unknown Heirs*, 358 P.2d 835 (Okla. 1961)

Proceeds of sale of building constructed with bond money, if not used to construct another building should be placed in sinking fund to retire debt that was incurred, and remainder should be deposited in general fund. *AG Op. June 2, 1961*

Electors of territory previously annexed by another annexation not entitled to vote on sale of building. *AG Op. September 25, 1958*

Board of education can refuse permission to use buildings if upkeep and insurance is not paid by group or organization requesting use of buildings. *AG Op. November 13, 1953*

Section 193. Disposition of Property.

Once a school district has voted to dispense with grades one (1) through eight (8) or one (1) through twelve (12), it shall be illegal for the Board of Education of such district to sell, exchange, trade, junk, salvage, or otherwise dispose of any furniture, equipment, land, building, or other such assets belonging to the school district unless such sale, exchange, trade or disposal is made to, and only to, another public school district in the State of Oklahoma. It shall also be illegal for the board of education to expend the school district's funds for any purpose after the end of the fiscal year in which grades one (1) through eight (8) or one (1) through twelve (12) have been dispensed with except in payment of legal transfer fees, bond and property insurance premiums, utilities, salary of the clerk of the board of education, audit expenses, and the expenses necessary for the preservation and maintenance of school property; provided, that a board or boards of education receiving the annexed district shall have one (1) year after annexation to sell or convey the title of land and buildings to a nonprofit corporation to be used for community purposes after the same has been approved by a majority of the electors of the annexed district, present and voting, at an election called for such purpose; provided, that when such use ceases, the title to said land and building shall be vested in the receiving district or districts which shall be evidenced by resolution of the annexed district. **(70-7-107)**

Section 194. Federally-Owned Reservations - Annexation.

Any federally owned reservation, or any portion thereof, within the State of Oklahoma shall with the consent of the United States, given by and through the commanding officer, superintendent, or other officer having charge of such reservation, be attached to an independent school district within the same transportation area for school purposes in which such reservation and independent school district are situated, upon the petition of the commanding officer, superintendent, or other officer having charge of such reservation, and with the consent of the board of education of such independent school district. The petition of such commanding officer, superintendent, or other officer in charge of any such federally owned reservation and the consent of such board of education shall be filed with the State Superintendent of Public Instruction and said Superintendent shall thereupon order such reservation to be attached to such independent school district. **(70-7-108)**

Section 195. Oklahoma School Consolidation and Annexation Act.

Sections 7-201 through 7-205 of this title shall be known and may be cited as the "Oklahoma School Voluntary Consolidation and Annexation Act". **(70-7-201)**

Section 196. Eligible School Districts.

The provisions of the Oklahoma School Consolidation and Annexation Act shall apply only to school districts whose entire territory has been annexed to one or more existing school districts or which have been created by the consolidation of two or more existing school districts in accordance with the provisions of Section 7-101 et seq. of this title or to school districts which have entered into a mutual contract with a superintendent as authorized pursuant to Section 5-106A of this title. **(70-7-202)**

Note: Amended by HB 2115, Sec. 1 of the 2011 Reg. Sess. Effective July 1, 2011.

Section 197. School Consolidation Assistance Fund.

A. There is hereby created in the State Treasury a fund to be designated the "School Consolidation Assistance Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies the Legislature may appropriate or transfer to the fund and any monies contributed for the fund from any other source, public or private.

B. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the State Board of Education for the purposes established by this section, the Legislature and in accordance with rules promulgated by the State Board of Education. The purposes shall be to provide:

1. Voluntarily or mandatorily consolidated school districts or districts who have received part or all of the territory and part or all of the students of a school district dissolved by voluntary or mandatory annexation, during the first year of consolidation or annexation with a single one-year allocation of funds needed for:

a. purchase of uniform textbooks in cases where the several districts were not using the same textbooks prior to consolidation or annexation,

b. employment of certified personnel required to teach courses of the district for which personnel from the districts consolidated or annexed are not certified and available,

c. employment assistance for personnel of the several districts who are not employed by the consolidated or annexing district. Employment assistance may include provision of a severance allowance for administrators, teachers and support personnel not to exceed eighty percent (80%) of the individual's salary or wages, exclusive of fringe benefits, for the school year preceding the consolidation or annexation. Personnel receiving such severance pay may accumulate one (1) year of creditable service for retirement purposes. Employment assistance may also include the payment of unemployment compensation benefits. The State Board of Education shall provide a severance allowance to employees dismissed from employment due to annexation or consolidation of a school district in the year of the annexation or consolidation and who were denied a severance allowance or unemployment compensation benefits and the voluntary consolidation funding of the annexing or consolidating district or districts has been paid on or after July 1, 2003, at the maximum allowable amount. Application for a severance allowance shall be made to the Finance Division of the State Department of Education by the dismissed employee no later than September 1 of the fiscal year immediately following the fiscal year in which the annexation or consolidation occurred,

d. furnishing and equipping classrooms and laboratories

e. purchase of additional transportation equipment, and

f. when deemed essential by the school district board of education to achieve consolidation or combination by annexation, renovation of existing school buildings and construction or other acquisition of school buildings; and

2. Assistance to school districts which have entered into a mutual contract with a superintendent as authorized pursuant to Section 5-106A of this title in paying the salary or wages of the superintendent. The assistance shall equal not more than fifty percent (50%) of the salary or wages of the superintendent for not more than three (3) consecutive years. In no case shall the total amount of assistance paid over the three-year period be more than One Hundred Fifty Thousand Dollars ($150,000.00) nor shall any school district be eligible to receive assistance pursuant to this paragraph for more than one three-year time period.

C. The State Board of Education shall only make allocations from the fund to school districts formed from the combination of two or more of the districts whose boards of education notify the State Board of Education on or before June 30 of their intent to annex or consolidate and are subsequently combined by such means by January 1 of the second year following the notification of intent. The boards of education which have entered into a mutual contract with a superintendent shall notify the Board on or before June 30 of the year preceding the school year the mutual contract will become effective.

D. Allocations will be made to school districts formed by voluntary or mandatory consolidation on the basis of combined average daily membership (ADM) of the school year preceding the first year of operation of the school district resulting from the consolidation; provided, not more than two hundred (200) ADM of any one school district shall be counted in determining the combined ADM of any district formed by consolidation. The ADM of any one school district shall not be considered more than once for allocations from the fund when the school district consolidates with two or more school districts. Allocations from the fund pursuant to this subsection shall be calculated by multiplying the combined ADM by Two Thousand Five Hundred Dollars ($2,500.00).

E. Allocations will be made to school districts which have received part or all of the territory and students of a school district by voluntary or mandatory annexation on the basis of ADM of the annexed school district for the school year preceding the first year of operation of the school district resulting from the annexation; provided, not more than two hundred (200) ADM of the annexed district shall be counted. Allocations from the fund pursuant to this subsection shall be calculated by multiplying the allowable ADM by Five Thousand Dollars ($5,000.00). In no case shall allocations payable pursuant to this subsection be greater than One Million Dollars ($1,000,000.00).

F. If monies in the School Consolidation Assistance Fund are insufficient to make allocations to all qualified combined districts, allocations shall be made based upon the determination of the State Board of Education with preference given to school district consolidation and annexation. **(70-7-203)**

Note: Amended by HB 2115, Sec. 2 of the 2011 Reg. Sess. Effective July 1, 2011.

Section 197.1 Authorization to Transfer Funds.

Beginning July 1, 2006, and each year thereafter, the State Board of Education shall determine the number of districts that notified the Board of their intent to annex or consolidate by June 30 of the previous fiscal year. If the Board determines the number of qualified combined districts to be two or less, the Board is authorized to transfer up to one-half of the funds transferred to the School Consolidation Assistance Fund for that fiscal year for allocation to the Financial Support of Public Schools for distribution to school districts in the State Aid Formula, provided in Section 18-200.1 of Title 70 of the Oklahoma Statutes. The State Board of Education is further authorized to transfer up to one-half of the funds not allocated to school districts for annexation or consolidation for the fiscal year ending June 30, 2006, for allocation to the Financial Support of Public Schools. **(70-7-203.1)**

Section 198. Preference for Allocation of Funds.

Consolidated districts and districts combined by annexation which are created pursuant to the Oklahoma School Consolidation and Annexation Act and districts that have entered into a mutual contract with a superintendent shall have for three (3) subsequent consecutive years after consolidation, annexation or the effective date of the mutual contract preference for allocations from funds appropriated to the State Board of Education for Community Education, Alternative and High Challenge Schools, School/Community Network for Arts-in-Education, Instructional Cooperative and Technical Education, Advanced Placement Incentives, and for all other allocations made by the Board on a competitive basis. **(70-7-204)**

Note: Amended by HB 2115, Sec. 3 of the 2011 Reg. Sess. Effective July 1, 2011.

Section 199. Exceptions to Certification Requirements.

When considering requests for exceptions to certification requirements from districts created by consolidation or annexation pursuant to the Oklahoma School Consolidation and Annexation Act for personnel reassigned because of the consolidation or annexation, the State Superintendent of Public Instruction and the State Board of Education shall exercise the greatest degree of latitude that can be regarded as consistent with acceptable professional practice. Highest priority for placement assistance services of the State Department of Education shall be afforded personnel for whom the consolidated or annexing district has no assignment required. **(70-7-205)**

Section 200. School Site Closing Moratorium - Consolidation Annexation.

Elementary school districts which desire to consolidate with or annex the entire territory comprising the school district to an independent school district or districts in the transportation area of their choice pursuant to the Oklahoma

School Consolidation and Annexation Act shall be authorized to enter into contracts with the independent school district or districts whom they consolidate with or annex to, which provide for up to a three-year moratorium on school site closings within the consolidated or annexed elementary district. **(70-7-206)**

Section 201. Pupils-Transfer-Appropriation-Expenditures.

Any student residing in a school district that does not offer the grade which the student is entitled to pursue shall be allowed to transfer to a school district inside or outside of the transportation area in which the student resides which offers the grade the student is entitled to pursue. The district to which the student transfers shall be referred to as the receiving district. A student shall be limited to one transfer pursuant to this section. Thereafter, a student may apply for any other kind of transfer for which the student is eligible as provided for in the Education Open Transfer Act. **(70-8-101)**

Section 201.1. Education Open Transfer Act.

This act shall be known and may be cited as the "Education Open Transfer Act". **(70-8-101.1)**

Section 201.2. Approval of Open Transfers.

A. On and after January 1, 2000, the transfer of a student from the district in which the student resides to another school district furnishing instruction in the grade the student is entitled to pursue shall be granted if the transfer has the approval of the board of education of the receiving district. A student granted a transfer may continue to attend the school to which the student transferred with the approval of the receiving district only, and any brother or sister of such student may attend such school with the approval of the receiving district only. No student shall be permitted to transfer more than once in any school year.

If the grade a student is entitled to pursue is not offered in the district where the student resides, the transfer shall be automatically approved.

B. When a student has been transferred and later changes residence to another school district in the State of Oklahoma, the student shall be entitled to continue to attend school in the district to which the student was transferred. If a change of residence is to the district to which the student was transferred, upon affidavit of the parent of the student, that district shall become the resident district. If a student changes residence to another district during the school year which is not the same district the student transferred to, the student shall be entitled to attend school in either the receiving district or the new district of residence for the remainder of the current year.

C. Any student transfer approved for any reason prior to January 1, 2000, shall continue to be valid and shall not be subject to the Education Open Transfer Act unless the parent having custody chooses otherwise. **(70-8-101.2)**

Section 202. (Omitted)

Section 203. Application for Transfer - Procedure.

A. In order that any student may be transferred, an application form specified by the State Board of Education must be completed by the parents of the student. For purposes of the Education Open Transfer Act, the term "parent" means the parent of the student or person having custody of the student as provided for in paragraph 1 of subsection A of Section 1-113 of this title. The application shall be obtained from and filed with the superintendent of the receiving school district for transfers to school districts in the State of Oklahoma and with the State Board of Education for transfers to school districts in another state. Except as otherwise provided for in this section, applications shall be filed no later than April 1 of the school year preceding the school year for which the transfer is desired. By April 1 of the same school year, the receiving school district shall notify the resident school district that an application for transfer has been filed by a student enrolled in the resident school district. The board of education of the receiving school district shall approve or deny the application for transfer not later than June 1 of the same year and shall notify the parents of the student of the decision. By July 1 of the same year, the parents of the student shall notify the receiving school district that the student will be enrolling in that school district. Failure of parents to notify the district as required may result in loss of the student's right to enroll in the district for that year.

B. On or before September 1, it shall be the duty of the superintendent of the receiving school district to file with the State Board of Education and each resident district a statement showing the names of the students granted transfers to the school district, the resident school district of the transferred students and their respective grade level.

C. The receiving school district of a student transferred pursuant to the provisions of this act shall notify the resident school district and parents of the student of a cancellation of the transfer. Such notice shall be made by June 1 prior to the school year for which the cancellation is applicable.

D. For students who are deaf or hearing impaired who wish to transfer to a school district with a specialized deaf education program, applications may be filed at any time during the school year. Upon approval of the receiving school district, the student may transfer to the receiving school district at any time during the school year. **(70-8-103)**

> District of child's residence is estopped to compel attendance where child had been attending another district for over five years under mistaken belief child was a resident of the latter district and where mistaken belief was induced by the district of child's residence's inaction, if not outright refusal, to enroll child. *Burdick v. ISD No. 52*, 702 P.2d 48 (Okla. 1985)

Section 203.1. Open Transfer Policy Required.

A local school district board of education which receives a request for a transfer for a student who does not reside in the school district may refuse the transfer in accordance with the provisions of the open transfer policy adopted by the local school district board of education. Each local board of education shall adopt an open transfer policy for the school district which specifies its criteria and standards for approval of transfers of students who do not reside in the district. The policy shall include, but shall not be limited to, provisions relating to the availability of programs, staff, or space as criteria for approval or denial of transfers. A school district may include in the policy as the basis for denial of a transfer, the reasons outlined in Section 24-101.3 of Title 70 of the Oklahoma Statutes.

In considering requests for students to transfer into a school district, the board of education shall consider the requests on a first-come, first-serve basis. A school district shall not accept or deny a transfer based on ethnicity, national origin, gender, income level, disabling condition, proficiency in the English language, measure of achievement, aptitude, or athletic ability.

Notwithstanding the provisions of the Education Open Transfer Act, transfers of children with disabilities shall be granted as authorized in Section 13-103 of Title 70 of the Oklahoma Statutes. **(70-8-103.1)**

Section 203.2. Transferred Students Participation in Athletic Competitions.

Except as otherwise provided, a student who enrolls, pursuant to the Education Open Transfer Act or pursuant to Section 2 of this act, in a school district in which the student is not a resident shall not be eligible to participate in school-related extramural athletic competition governed by the Oklahoma Secondary School Activities Association for a period of one (1) year from the first day of attendance at the receiving school unless the transfer is from a school district which does not offer the grade the student is entitled to pursue. If the student is granted an emergency transfer pursuant to Section 8-104 of this title, was granted a transfer for any reason prior to January 1, 2000, or enrolls pursuant to the Education Open Transfer Act and qualifies for a hardship waiver pursuant to the rules of the Oklahoma Secondary School Activities Association, eligibility to participate in school-related extramural athletic competition shall be determined by the Oklahoma Secondary School Activities Association. **(70-8-103.2)**

> OSSAA is a "state actor" subject to the 14th Amendment of the Constitution of the United States. *Christian Heritage Academy v. Oklahoma Secondary School Activities Ass'n*, 483 F.3d 1025 (10th Cir. 2007)

Section 204. Emergency Transfers - What is Included in Emergencies.

In addition to the transfer process provided in Section 8-103 of this title, students may be transferred on an emergency basis. A written application for an emergency transfer designating the district to which the transfer is desired shall be made by the parent and filed with the superintendent of the receiving school district. On an adequate showing of emergency the superintendent of the receiving school district may make and order a transfer, subject to approval by the State Board of Education. An emergency shall include only:

1. The destruction or partial destruction of a school building;

2. The inability to offer the subject a pupil desires to pursue, if the pupil becomes a legal resident of a school district after February 1 of the school year immediately prior to the school year for which the pupil is seeking the transfer;

3. A catastrophic medical problem of a student, which for purposes of this section shall mean an acute or chronic serious illness, disease, disorder or injury which has a permanently detrimental effect on the body's system or renders the risk unusually hazardous;

4. The total failure of transportation facilities;

5. The concurrence of both the sending and receiving school districts;

6. The unavailability of remote or on-site Internet-based instruction by course title in the district of residence for a student identified as in need of drop-out recovery or alternative education services, provided such student was enrolled at any time in a public school in this state during the previous three (3) school years; or

7. The unavailability of a specialized deaf education program for a student who is deaf or hearing impaired.

An emergency transfer previously made may be canceled, with the concurrence of the board of the receiving district and the parent. **(70-8-104)**

Section 205. School Dispensed With - Transfer of Pupils Annexation.

A. Upon a majority vote of the electors in a school district voting at the annual school district election or at a special school district election called for such purpose and held not later than June 30, either a high school or a grade school, or both, shall be dispensed with for the ensuing year. An election for such purpose shall also be held upon petition for an election, signed by forty percent (40%) of the school district electors. To calculate the sufficiency of the number of signatures on a petition, the forty percent (40%) figure shall be applied to the highest number of voters voting in a regular school election in the school district in the preceding five (5) years as determined by the secretary of the county election board. The secretary of the county election board shall certify the sufficiency of the number of signatures on the petition. The election shall be conducted by the county election board in accordance with Sections 13A-101 through 13A-111 of Title 26 of the Oklahoma Statutes. The secretary of the county election board shall notify the State Board of Education of the results of every election held to dispense with school.

B. All of the pupils who would be entitled to attend school in the grades dispensed with shall be transferred to another school district or districts maintaining courses of instruction which such pupils are entitled to pursue. The parent or guardian of each child to be transferred shall be required to file an application for the transfer of the child or children with the State Department of Education within ten (10) days after the results of the election are declared. The procedures for such transfers shall be determined by the State Board of Education.

C. Any school district which dispenses with its entire school district for the ensuing year, as provided herein, shall be mandatorily annexed on July 1 by the State Board of Education to another school district or other districts to which pupils of such dispensed school district have been transferred. Provided, if a school district does not officially dispense with its school and fails to open or maintain a school for such ensuing year, the State Board of Education, except in cases where reasons over which the district had no control causes a normal delay in the opening or maintenance of such school, shall at its next regular meeting, annex such school district to another school district or other districts to which pupils have been transferred. Provided further that if a school district does not have an average daily attendance that meets the State Board of Education regulations for accrediting purposes and does not dispense with its school by June 30, the State Board of Education shall annex such district to the high school transportation area in which the district is situated at the first regular or special meeting in July. **(70-8-106)**

Parents of children transferred to another district are eligible to sign petition to dispense with school in district which parents reside. *April 4, 1980 (AG Op. No. 80-64)*

Section 206. Transfer Fees Prohibited.

A. Except as provided in subsection B of this section, on and after July 1, 1990, no school district shall be required to pay and no school district shall charge any other school district a fee for the transfer of a student. Specifically, transfer fees shall not be permitted for transfers between elementary school districts, for transfers between independent school districts or for transfers between independent school districts and elementary school districts.

B. Nothing herein shall prevent the payment or charging of any other fee for the transfer of a student as required by law. Except as otherwise provided for in the Education Open Transfer Act, school districts shall not be permitted to contract to waive transfer fees with regard to special education pupil transfers.

C. The State Board of Education shall establish the necessary and appropriate application forms sufficient to enable school districts to accomplish transfers and to comply with the provisions of Sections 8-101 through 8-106 of this title. Upon establishment of such forms, the State Board of Education shall notify each school district of the content thereof. **(70-8-112)**

Section 206.1 Transfers - Parent employed as teacher

A student shall be allowed to transfer to a school district in which the parent or legal guardian of the student is employed as a teacher, as defined in Section 1-116 of Title 70 of the Oklahoma Statutes, upon the approval of the receiving district only. **(70-8-113)**

Section 207. Transportation for Pupils - Approval by State Board of Education.

A. Any school district may provide transportation for any child who is participating in any prekindergarten or early childhood program operated by the school district or any child who is participating in any Head Start program offered within the school district.

B. Upon a request for a student transfer pursuant to the provisions of the Education Open Transfer Act, if the parent of the student requests that the receiving district provide transportation for the student, and if the receiving district grants the transfer, then the receiving district may provide such transportation only within the boundaries of the receiving school

district. A receiving school district shall not cross school district boundaries to transport a kindergarten through eighth-grade student transferred pursuant to the Education Open Transfer Act except as otherwise authorized in Section 9-105 of this title.

C. Any school district may provide transportation for each student who should attend any public elementary or secondary school when, and only when, transportation is necessary for accomplishment of one of the following purposes:

1. To provide adequate educational facilities and opportunities which otherwise would not be available which shall include those purposes provided in the Education Open Transfer Act; and

2. To transport students whose homes are more than a reasonable walking distance, as defined by regulations of the State Board of Education, from the school attended by such student. Provided, that no state funds shall be paid for the transportation of a student whose residence is within one and one-half (1 ½) miles from the school attended by such student. **(70-9-101)**

School district owed no duty to student who was struck by car as she was crossing street from her residence prior to arrival of school bus on opposite side of street; school district owes no duty to pick up or deliver each student on side of street where student lives. *Stokes v. Tulsa Public Schools,* 875 P.2d 445(Okla. App. 1994)

School district has duty to provide a reasonably safe bus stop where children can wait for bus with reasonable safety. *Brooks v. Woods*, 640 P.2d 1000 (Okla. App. 1981)

Board of Education cannot transport pupils to an Opportunity Center not supported by public funds, unless part of district's education program. *AG Op. May 30, 1972*

Use of school buses, operated at public expense, for transporting parochial school pupils was forbidden under the Constitution which prohibits use of pubic money or property for sectarian purposes. Transportation could not be justified on theory of public welfare. *Board of Education for ISD No. 52 v. Antone*, 384 P.2d 911 (Okla. 1963)

District buses cannot be used to transport students to parochial school. *AG Op. August 9, 1957*

Section 207.1. Transportation Equipment - Inspection.

A. The board of education of any school district furnishing transportation shall require that all transportation equipment, as defined in paragraph 1 of subsection A of Section 9-104 of this title, operated by that school district be inspected once a year by an official inspector, as designated by the State Board of Education, to verify that the transportation equipment is being maintained and operated in accordance with all the requirements of the rules of the State Board of Education and state and federal law. The inspection shall include an examination and test of the brakes, steering, front and rear wheel suspension, exhaust systems, wheels and tires, windshield wipers, horn or warning device, proper adjustment of turn signals, windshield, and other glass and lighting equipment, and if applicable, stop signal arms, and emergency exits and equipment. A record of the inspection shall be maintained by the school district and shall be available for inspection upon request.

B. For purposes of this section, "official inspector" means a person who, by training and experience specified by rule promulgated by the State Board of Education, is eligible to conduct inspections.

C. Failure to comply with subsection A of this section shall result in a loss of state funds to that school district in an amount to be determined by the State Board of Education.

D. The Oklahoma Department of Public Safety may perform inspections of all school transportation equipment and inspection records. **(70-9-101.1)**

Section 208. Transportation Costs - Reporting.

The State Department of Education shall prescribe necessary forms for use by school districts in reporting actual expenses incurred in transporting pupils. **(70-9-102)**

Activity of school bus transportation which lies outside parents' control falls within school district's legal duty to exercise reasonable care with transportation of children. *Brooks v. Woods*, 640 P.2d 1000 (Okla. App. 1981)

Section 209. Purchase or Contract for Use of Vehicles - Lettering.

The board of education of any school district authorized to furnish transportation to school children may purchase and maintain suitable vehicles for such use and/or may contract with responsible individuals or another school district to furnish all or part of said transportation. All such contractors, however, shall be subject to statutory provisions relating to the transportation of school children. Every vehicle with a capacity of ten (10) passengers or more used in transporting school children shall have painted in letters not less than eight (8) inches in height on the front thereof the words, "SCHOOL BUS," and on the rear thereof in letters of the same size "SCHOOL BUS." **(70-9-103)**

Section 210. Transportation Equipment - Definition.

A. As used in this title:

1. "Transportation equipment" means any vehicle or conveyance used for transportation of pupils from their homes to school and from school to their homes when the cost of rent, lease, purchase, maintenance, or operation of said vehicle or conveyance is defrayed in whole or in part from public school funds; and

2. "Auxiliary transportation equipment" includes but is not limited to equipment used for transporting students to and from extracurricular activities but does not include transportation equipment used for transporting students from their homes to school and from school to their homes.

B. 1. All transportation equipment shall be of such construction as to provide safe, comfortable and economical transportation of passengers. All such equipment which is used to transport ten or more public school children at one time shall be constructed, maintained and operated in accordance with all requirements of laws of the State of Oklahoma and rules of the State Board of Education.

2. All auxiliary transportation equipment shall be of such construction as to provide safe, comfortable and economical transportation of passengers. All auxiliary transportation equipment which is used to transport ten or more public school children at one time shall be constructed and maintained in accordance with all requirements of laws of this state.

C. Nothing in this act shall prevent the bidding by and purchase of new or used transportation equipment or new or used auxiliary transportation equipment from out-of-state dealers so long as they comply with Section 561 et seq. of Title 47 of the Oklahoma Statutes regulating and licensing manufacturers, distributors, dealers, salesmen, etc., and hold a current motor vehicle dealers' license.

D. Notwithstanding any other provision of law, a district board of education may paint or purchase auxiliary transportation equipment in a color or colors other than National School Bus Yellow.

E. Any person violating the provisions of this section shall be guilty of a misdemeanor. **(70-9-104)**

Section 211. Boundaries of Area for Transportation - Definite Routes.

A. The State Board of Education shall determine and fix definite boundaries of the area in which each school district shall provide transportation for each school. When an elementary school district is surrounded by an independent school district, the independent school district must be designated as the transportation area for the high school students in the elementary school district.

B. The State Board of Education is authorized to establish definite routes in each transportation area, and it shall be the further duty of said Board to make rules and regulations as to the manner in which said area and routes may be established or changed. Except as otherwise provided in this section, state funds payable to a district shall be withheld for a failure or refusal to confine its transportation to the area and routes designated by the State Board of Education or to comply with the rules and regulations of the State Board of Education. State funds payable to a school district shall not be withheld in the following circumstances:

1. When, based upon the mutual agreement of the two participating school districts, a school district offering special education classes extends its transportation program to include the transportation of students qualifying for special education in an adjacent school district which does not offer special education classes, for the purpose of offering its special education classes to said students.

2. When, by resolutions of the board of education of two participating districts, the districts agree that one or both of the districts may extend its transportation program into the other participating district to provide transportation for students who reside in such other participating district and who, by agreement of the participating districts, are, or will be, attending school in the district that has agreed to furnish transportation for the students.

C. The State Board shall promulgate rules as are necessary to implement the provisions of this section. **(70-9-105)**

A prerequisite to independent school district's annexation of federal land is inclusion of the land within the district's designated transportation area. *Jet-Nash School District v. Cherokee School District*, 776 P.2d 553 (Okla. 1989)

Section 212. Insurance.

The board of education of any school district authorized to furnish transportation may purchase insurance for the purpose of paying damages to persons sustaining injuries proximately caused by the operation of motor vehicles used in transporting school children. The operation of said vehicles by school districts, however, is hereby declared to be a public governmental function, and no action for damages shall be brought against a school district under the provisions of this section but may be brought against the insurer, and the amount of the damages recoverable shall be limited in amount to that provided in the contract of insurance between the district and the insurer and shall be collectible from said insurer only. The provision of this section shall not be construed as creating any liability whatever against any school district which does not provide said insurance. **(70-9-106)**

Insurer is not a proper party in a lawsuit by a child struck by a bus. *Conway v. Ohio Casualty Ins. Co.*, 669 P.2d 766 (Okla. 1983)

This section has been superseded by the Political Subdivision Tort Claims Act which contains its own provisions for procurement of liability insurance for school districts. *April 22, 1982 (AG Op. No. 82-80)*

Section 213. Rules of the Road.

Each school bus shall be operated in conformity with all rules of the road duly established by law and shall observe traffic requirements for the route which it travels. **(70-9-107)**

Section 214. Additional Transportation - Expenses.

The board of education of any school district furnishing transportation is hereby authorized to furnish, in addition to free transportation to and from school, transportation within or without the district, within or outside of this state, for children attending the schools of that district, for the purpose of attending cocurricular and extracurricular activities. Two or more districts may enter into agreements for the furnishing of such transportation. The expense of any such additional transportation shall be paid by the children so transported, by the school activity or school organization receiving benefit from such transportation, or from other private sources. Money so collected shall not be chargeable to or become a part of the school district's finances. **(70-9-108)**

District may be authorized to use buses to transport nondistrict children to educational contests and activities within or without the district, but cannot provide transportation to students of higher education. *July 27, 1982 (AG Op. No. 82-192)*

Student Activity Fund can be used to defray expense of transporting students to and from student activities, or to reimburse teacher for expenses or otherwise compensate teacher for transporting students. *AG Op. January 17, 1980*

Section 215. Price List and Description of Transportation Equipment.

The State Board of Education is hereby authorized to request a price list and a complete description and specifications of any transportation equipment to be offered for sale to any school board or board of education of any district in the State of Oklahoma.

The State Board of Education shall examine such equipment to determine whether or not such equipment meets the requirements of the National School Bus Standards and such other specifications as the State Board of Education may determine as necessary to provide safe transportation for pupils to and from school and shall approve for sale to all schools in the State of Oklahoma transportation equipment, including bus bodies and chassis, which equipment meets or exceeds the specifications provided for the National School Bus Standards and such other specifications as the State Board of Education may deem as necessary. Any equipment fueled by alternative fuels as defined in Section 130.13 of Title 74 of the Oklahoma Statutes shall also meet any federal safety standards specified for any equipment used to provide transportation for pupils to and from school. The State Board of Education may approve auxiliary transportation equipment that is not National School Bus Yellow in color.

The State Board of Education shall make a list of the equipment approved by them and the maximum price at which such equipment can be purchased. The list shall include a complete description of the equipment. Such description shall include the specification of the school bus bodies and chassis as well as the factory list price of such equipment at the various factories. Such list shall be made available to all school districts authorized to purchase transportation equipment. Provided, at any time there shall be any change of specifications or prices by manufacturers of chassis or bodies, there shall be filed with the State Board of Education a revised set of specifications and prices.

The school board or board of education of any school district authorized to furnish transportation for pupils to and from school and receiving any State Aid funds, except as provided for in this section, shall be required to purchase all their transportation equipment from the list so provided on sealed bids and at a price not greater than the price filed with the State Board of Education; and the State Board of Education shall be required to deduct from any State Aid for which the school district may qualify the amount paid by any school district for transportation equipment not approved by the State Board of Education or the amount paid greater than shown on the price list for that transportation equipment filed with the State Board of Education. Unless otherwise exempted by this section, all purchases made under the provisions of this act for transportation shall be made upon sealed bids, and contract of purchase shall be awarded to the lowest and best bidder.

Provided, however, any purchase or sale of used transportation equipment shall not be subject to the list and sealed bid requirements as provided for in this section.

The State Board of Education shall adopt rules necessary for the administration of this section and shall require from school district boards of education such information and reports as necessary for proper administration of this section.

Any cost of administration of this section shall be paid by the State Board of Education from funds appropriated for the administration of the State Aid Law. **(70-9-109)**

> State Department of Education regulations which do not require passenger seat belts in school buses are not a clear indication of legislative intent and are not to be given such effect. *Attocknie v. Carpenter Manufacturing, Inc.*, 901 P. 2d 221 (Okla. App. 1995)

Section 216. Special Transportation Revolving Fund.

There is hereby created a revolving fund, to be known and designated as the "Special Transportation Revolving Fund," which shall consist of all appropriations made for the purposes hereinafter designated and shall also include all proceeds resulting from the use and/or resale of pupil transportation equipment purchased out of monies in said revolving fund. Said revolving fund shall be a continuing fund and shall be nonfiscal in character. **(70-9-110)**

Section 217. Use of Fund.

The State Board of Education through the Director of Finance is hereby authorized to use the "Special Transportation Revolving Fund" for the purchase of pupil-transportation equipment suitable for the transportation of children to and from the common schools and to make one or more units of such pupil-transportation equipment available for use by any school district in the State of Oklahoma which is either required or authorized by statute to provide free transportation to and from school for children legally residing in such district or legally transferred thereto and entitled to attend school therein, but which school district does not have sufficient funds available, and, because of then existing indebtedness, may not legally issue its bonds for the purchase of other pupil-transportation equipment. Provided, such equipment shall be purchased from the list of approved equipment as provided for in Section 9-109 and at a price not greater than the price so approved. Provided, further, the school board or board of education of any school district desiring to rent such equipment shall select from the approved list the equipment they desire before the State Board of Education shall be authorized to purchase transportation equipment for rental to any district. Provided, further, the State Board of Education shall not be authorized to act in behalf of any school district in the purchase of any transportation equipment except as provided for in this act. **(70-9-111)**

Section 218. Lease of Equipment.

Any such eligible school district and the State Board of Education may enter into a lease contract, in writing, for the use by such school district of one or more of such pupil-transportation equipment units during the then current fiscal year, at the annual rental value of such unit or units determined in the manner provided for herein, but which contract may be entered into only against a then current item of appropriation for "Transportation Operation." Any school district which lawfully leases one or more of such pupil-transportation equipment units from the State Board of Education during any fiscal year shall be eligible to enter into a like contract for the same unit or units during and for the ensuing fiscal year, and shall also be eligible to purchase the same such units, as provided for herein, even though such district then has sufficient funds available or may then legally issue its bonds for the purchase of other pupil transportation equipment. **(70-9-112)**

Section 219. Rental Value of Equipment.

The State Board of Education shall fix the annual rental value of each particular unit of such pupil-transportation equipment at an amount not less than that required to amortize the original total cost of that unit by five (5) years' rental thereof. **(70-9-113)**

Section 220. Sale of Units of Equipment After Lease For One Year.

The State Board of Education may sell any particular unit of such pupil-transportation equipment to an eligible school district, at any time after such unit has been leased for one (1) fiscal year, for an amount not less than the original total cost of such unit less rentals actually paid for the use of such unit; provided, however, in so selling any such unit, preference shall be given to the school district leasing such unit during the then preceding fiscal year. **(70-9-114)**

Section 221. Care of Equipment.

Any school district leasing any such pupil-transportation equipment from the State Board of Education shall at its own cost and expense procure such equipment from the State Board of Education, keep such equipment, including all tires, tubes and accessories thereon and therewith, in good repair during the time the same shall be in its possession, and, at the expiration of the term of such lease, unless such equipment be purchased or again leased by such district, return such equipment to the State Board of Education in as good condition as when received, ordinary wear and tear alone excepted. Any tire or tube needing to be replaced while such equipment is in the possession of a school district shall be replaced by, and at the expense of, such district. **(70-9-115)**

Section 222. Space for Storage of Equipment.

The State Board of Education is hereby authorized to procure space for the storage of such pupil-transportation units while not in the possession of a school district and to pay the necessary cost thereof from the "Special Transportation Revolving Fund." When any such unit is returned to the State Board of Education, said Board is hereby authorized to recondition same, and to pay necessary cost of such reconditioning, including the cost of any new tires or tubes required for such purpose, from said "Special Transportation Revolving Fund." **(70-9-116)**

Section 223. Expense - Paid from What Funds.

Any costs or expense necessarily incurred by the State Board of Education in the administration of the foregoing provisions relating to the "Special Transportation Revolving Fund" shall be paid from funds appropriated or allocated for the administration of laws providing for the payment of State Aid to school districts in the same manner that expenses of administration of such laws are paid. **(70-9-117)**

Section 224. School Bus Drivers - Course of Instruction Required.

Except in case of emergency, anyone who operates, as a driver, a school bus whether a contractor for private hire or an employee of the school district for the transportation of students enrolled in the public schools of the district shall complete a course of instruction pertaining to the operation of a school bus. Said course to be approved by the State Department of Education and the district involved. **(70-9-118)**

Section 224.1. Safe Routes to Schools Programs.

A. The Oklahoma Department of Transportation shall establish and implement the Safe Routes to Schools program, a federally-funded program with the goal of increasing physical activity in school-aged children by increasing the number of children walking and bicycling to school.

B. The Department may apply for, accept, receive and disburse gifts, grants, donations and other monies from the federal government or from any other public or private source to implement the provisions of this act. Monies received by the Department for such purposes shall be deposited in the Safe Routes to Schools Revolving Fund created in Section 2 of this act.

C. The Director of the Department shall appoint a Safe Routes to Schools Advisory Committee, which shall consist of any number of persons the Director deems appropriate. Members appointed to serve on such committee shall not be eligible for compensation for such service; provided, however, public employees may be eligible to serve on the committee as part of their duties.

D. The Department, in consultation with the Safe Routes to Schools Advisory Committee, shall establish a safe routes to schools program to assist communities in identifying and reducing barriers and hazards to children walking or bicycling to and from school. The Department may provide the following types of assistance:

1. Grants;

2. Technical services and advice;

3. Public information and education; and

4. Evaluation and measurement of community programs.

E. The Department is authorized to promulgate rules necessary to implement the provisions of this act. **(69-420)**

Section 224.2. Safe Routes to Schools Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Department of Transportation to be designated the "Oklahoma Safe Routes to Schools Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Department from any public or private sources authorized by law. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Department for the purpose of implementing the federal Safe Routes to School program. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment. **(69-421)**

Section 225. Attendance Officer - Assistants.

Except as provided in Section 10-102.1 of this title, the board of education of each school district shall appoint, or may employ, and fix the compensation of an attendance officer and such assistants as may be necessary, who shall serve under the authority and supervision of the board of education and the district superintendent of schools. Provided, that the same person may be appointed or employed as an attendance officer or assistant for two or more school districts. **(70-10-101)**

> Supervisor of school census and attendance appointed for dependent districts may be assigned duties in independent school districts of county with ultimate objective of coordinating such activities in all school districts of the county.
> *AG Op. August 18, 1949*

Section 226. Police Officer May Act as Attendance Officer.

The board of education of each school district may enter into an agreement with the municipal police department serving the school district which provides that some or all of the duties of an attendance officer for the school district shall be performed by a certified police officer of the municipality. The agreement may further provide that the compensation and necessary traveling expenses of such attendance officer shall be payable from municipal funds. **(70-10-102.1)**

Section 227. School Population - Average Daily Attendance.

The school population, scholastic population, scholastic enumeration and enumeration of a district shall be the legal average daily attendance. The legal average daily attendance shall be the average number of pupils present in a school district during a year or other specified period of time. The State Board of Education shall determine the legal average daily attendance for each school district by dividing the aggregate days of pupils present in each school district by the number of days taught in each school district. **(70-10-103.1)**

Section 227.1. Student Information Referral Procedure.

By January 1, 1995, each school district in this state shall develop a student information referral procedure whereby the Oklahoma State Bureau of Investigation would, if authorized by a parent or legal guardian at any time, have access through a designated district employee to information currently maintained by the school district not prohibited from being released to law enforcement officers by state or federal law regarding past and present students in the district including but not limited to names of the parents of the student and their addresses. **(70-10-103.2)**

Section 228. State Treasurer and Secretary of School Land Department- Report.

The State Board of Education shall file with the Secretary of the School Land Commission a report, duly certified, showing the school population for the preceding school year of each school district. School population shall be determined as provided for in Section 10-103.1 of this title. The report so filed shall be the basis for making the apportionments of state school land earnings during the following fiscal year. **(70-10-104)**

Section 229. Neglect or Refusal to Compel Child to Attend School - Exceptions.

A. It shall be unlawful for a parent, guardian, or other person having custody of a child who is over the age of five (5) years, and under the age of eighteen (18) years, to neglect or refuse to cause or compel such child to attend and comply with the rules of some public, private or other school, unless other means of education are provided for the full term the schools of the district are in session or the child is excused as provided in this section. One-half (1/2) day of kindergarten shall be required of all children five (5) years of age or older unless the child is excused from kindergarten attendance as provided in this section. A child who is five (5) years of age shall be excused from kindergarten attendance until the next school year after the child is six (6) years of age if a parent, guardian, or other person having custody of the child notifies the superintendent of the district where the child is a resident by certified mail prior to enrollment in kindergarten, or at any time during the first school year that the child is required to attend kindergarten pursuant to this section, of election to withhold the child from kindergarten until the next school year after the child is six (6) years of age. A kindergarten program shall be directed toward developmentally appropriate objectives for such children. The program shall require that any teacher employed on and after January 1, 1993, to teach a kindergarten program within the public school system shall be certified in early childhood education. All teachers hired to teach a kindergarten program within the public school system prior to January 1, 1993, shall be required to obtain certification in early childhood education on or before the 1996-97 school year in order to continue to teach a kindergarten program.

B. It shall be unlawful for any child who is over the age of twelve (12) years and under the age of eighteen (18) years, and who has not finished four (4) years of high school work, to neglect or refuse to attend and comply with the rules of some public, private or other school, or receive an education by other means for the full term the schools of the district are in session.

Provided, that this section shall not apply:

1. If any child is prevented from attending school by reason of mental or physical disability, to be determined by the board of education of the district upon a certificate of the school physician or public health physician, or, if no such physician is available, a duly licensed and practicing physician;

2. If any child is excused from attendance at school, due to an emergency, by the principal teacher of the school in which such child is enrolled, at the request of the parent, guardian, custodian or other person having control of such child;

3. If any child who has attained his or her sixteenth birthday is excused from attending school by written, joint agreement between:

a. the school administrator of the school district where the child attends school, and

b. the parent, guardian or custodian of the child. Provided, further, that no child shall be excused from attending school by such joint agreement between a school administrator and the parent, guardian or custodian of the child unless and until it has been determined that such action is for the best interest of the child and/or the community, and that said child shall thereafter be under the supervision of the parent, guardian or custodian until the child has reached the age of eighteen (18) years;

4. If any child is excused from attending school for the purpose of observing religious holy days if before the absence, the parent, guardian, or person having custody or control of the student submits a written request for the excused absence. The school district shall excuse a student pursuant to this subsection for the days on which the religious holy days are observed and for the days on which the student must travel to and from the site where the student will observe the holy days; or

5. If any child is excused from attending school for the purpose of participating in a military funeral honors ceremony upon approval of the school principal.

C. It shall be the duty of the attendance officer to enforce the provisions of this section. In the prosecution of a parent, guardian, or other person having custody of a child for violation of any provision of this section, it shall be an affirmative defense that the parent, guardian, or other person having custody of the child has made substantial and reasonable efforts to comply with the compulsory attendance requirements of this section but is unable to cause the child to attend school. If the court determines the affirmative defense is valid, it shall dismiss the complaint against the parent, guardian, or other person having custody of the child and shall notify the school attendance officer who shall refer the

child to the district attorney for the county in which the child resides for the filing of a Child in Need of Supervision petition against the child pursuant to the Oklahoma Juvenile Code.

D. Any parent, guardian, custodian, child or other person violating any of the provisions of this section, upon conviction, shall be guilty of a misdemeanor, and shall be punished as follows:

1. For the first offense, a fine of not less than Twenty-five Dollars ($25.00) nor more than Fifty Dollars ($50.00), or imprisonment for not more than five (5) days, or both such fine and imprisonment;

2. For the second offense, a fine of not less than Fifty Dollars ($50.00) nor more than One Hundred Dollars ($100.00), or imprisonment for not more than ten (10) days, or both such fine and imprisonment; and

3. For the third or subsequent offense, a fine of not less than One Hundred Dollars ($100.00) nor more than Two Hundred Fifty Dollars ($250.00), or imprisonment for not more than fifteen (15) days, or both such fine and imprisonment.

Each day the child remains out of school after the oral and documented or written warning has been given to the parent, guardian, custodian, child or other person or the child has been ordered to school by the juvenile court shall constitute a separate offense.

E. At the trial of any person charged with violating the provisions of this section, the attendance records of the child or ward may be presented in court by any authorized employee of the school district.

F. The court may order the parent, guardian, or other person having custody of the child to perform community service in lieu of the fine set forth in this section. The court may require that all or part of the community service be performed for a public school district.

G. The court may order as a condition of a deferred sentence or as a condition of sentence upon conviction of the parent, guardian, or other person having custody of the child any conditions as the court considers necessary to obtain compliance with school attendance requirements. The conditions may include, but are not limited to, the following:

1. Verifying attendance of the child with the school;

2. Attending meetings with school officials;

3. Taking the child to school;

4. Taking the child to the bus stop;

5. Attending school with the child;

6. Undergoing an evaluation for drug, alcohol, or other substance abuse and following the recommendations of the evaluator; and

7. Taking the child for drug, alcohol, or other substance abuse evaluation and following the recommendations of the evaluator, unless excused by the court. **(70-10-105)**

A married person under eighteen (18) years of age is required to attend school and to comply with the compulsory attendance law regardless of his/her status as to legal rights of majority. *April 19, 1995 (AG Op. No. 95-8)*

A school district may not refuse to excuse absence from school of students on their religious holy days. *June 2, 1987 (AG Op. No. 87-41)*

Not necessary for private school attended by child to be accredited. *AG Op. February 13, 1974*

Board of Education has discretion to classify students and require examination when students have not attended the public schools. *AG Op. February 13, 1974*

District not required to furnish textbooks and other materials to resident child not attending a district-operated school. *AG Op. February 13, 1974*

Compulsory Attendance Statute does not require that a parent or other individual giving private tutoring hold an Oklahoma teaching certificate if private instruction is given in good faith and is equivalent to that afforded by the state. *February 14, 1974 (AG Op. No. 73-129)*

The requirements of 70 O.S. 1971, §10-105 may be met by the providing of means of education other than public or private school, but, if challenged, the adequacy and sufficiency of such education is a question of fact to be determined by a jury within the confines of a court of competent jurisdiction. *May 1, 1972 (AG Op. No. 72-155)*

County Attorney can file complaint for violation of compulsory school law without authorization or verification of supervisor of school census and attendance. *Sheppard v. State*, 306 P.2d 346 (Okla. Crim. App. 1957)

Children attending commercial colleges in good faith and receiving instruction equivalent to that given in public schools do not violate compulsory school attendance law. *February 5, 1953*

Prosecution for violation of compulsory school attendance law should be brought in county where parents reside, and not in county in which public school the child is eligible to attend is located. *AG Op. November 8, 1952*

Attendance of school age child at public school not compulsory if child is receiving equivalent instruction by correspondence for full term the district school is in session, and if the instruction by correspondence is not for the purpose of evading the proper education for the child. *AG Op. June 28, 1950*

The fact that a person between the ages of 16 and 18 years is the sole support of his family does not relieve such person from compulsory school attendance requirements. *AG Op. September 17, 1949.*

Section 229.1. Municipal Ordinances Relating to Truancy.

A. 1. A municipality with a population of at least twenty-five thousand (25,000) may, by written resolution filed with the district court, assume jurisdiction of cases involving children under eighteen (18) years of age charged with violating any municipal ordinance identified in the resolution.

2. Any other municipality may enter into an interlocal agreement with the district court pursuant to the Interlocal Cooperation Act, to assume jurisdiction of cases involving children under eighteen (18) years of age charged with violating any municipal ordinance as agreed by the district court, the district attorney and the municipality.

3. The chief juvenile judge of the district court judicial district, or if there is no chief judge then the presiding judge of the judicial administrative district, is hereby authorized to enter into the interlocal agreement as provided for in this section for and on behalf of said judicial district if the judge determines that the agreement is constitutional and complies with state and federal law.

B. 1. A child under eighteen (18) years of age who is taken into custody for the alleged violation of a municipal ordinance relating to truancy may be held pursuant to Section 10-109 of Title 70 of the Oklahoma Statutes.

2. A child under eighteen (18) years of age who is taken into custody for the alleged violation of a municipal ordinance relating to curfews may be held temporarily under the care of a peace officer or other person employed by a police department only until the parent of the child, legal guardian, legal custodian, attorney or other responsible adult assumes custody or, if such a person cannot be located within a reasonable time of the taking of the child into custody or if such a person refuses to assume custody, until temporary shelter is found for the child. The temporary custody provided for by this paragraph shall be utilized as a means of returning the child to the home of the child or other place of shelter.

3. In no event shall the child be placed in a jail, lockup or adult detention facility. In no event shall the child be placed in a juvenile detention facility for more than twenty-four (24) hours, excluding weekends and holidays, prior to an initial court appearance and for an additional twenty-four (24) hours excluding weekends and holidays, immediately following an initial court appearance; provided, however, this provision shall not restrict or prohibit placing a child in a community intervention center pursuant to Section 9 of this act.

4. Notwithstanding any other provision of this Code, a child less than eighteen (18) years of age, who is taken into custody for the alleged violation of a municipal ordinance, and who can be prosecuted in municipal court for such offense pursuant to jurisdiction assumed by the municipal court pursuant to the provisions of paragraph 1 of this subsection, may be temporarily detained by the municipality in a municipal juvenile facility, as defined by this section, but only pursuant to the following conditions:

a. the municipality shall immediately take all reasonable steps to attempt to locate the parent of the child, legal guardian, legal custodian, attorney or another responsible adult and determine if the parent, legal guardian, legal custodian, attorney or other responsible adult is willing to appear at the municipal juvenile facility and assume personal custody of the child upon the release of the child from such facility,

b. the child shall be released to the personal custody of the parent of the child, legal guardian, legal custodian, attorney or other responsible adult as soon as practicable and upon the written promise of such person to return the child to municipal court to answer the municipal charges on the date and at the time set by the municipal court and to assume responsibility for costs for damages by the child if the child causes damages while committing any acts in violation of municipal ordinances. Municipalities may enact ordinances providing penalties for failure to comply with the written promise and for refusal to assume custody of a child in a timely manner,

c. the child shall be detained in the municipal juvenile facility for no longer than twenty-four (24) hours; provided, if the parent of the child, legal guardian, legal custodian, attorney or other responsible adult fails to appear at the municipal juvenile facility and assume personal custody of the child within said twenty-four-hour period, then custody or release of the child shall be determined pursuant to the provisions of Section 40 of this act,

d. the child shall be provided with adequate fresh drinking water,

e. the child shall be provided with adequate food not less than three times in a twenty-four-hour period,

f. the child shall be provided with adequate bathroom facilities and bedding, and

g. the child shall be provided with any necessary medical care and treatment.

C. For the purposes of this section, a "municipal juvenile facility" shall mean a secure facility which is entirely separate from any jail, adult lockup, or other adult facility, or is spatially separate if contained inside any jail, adult lockup, or other adult facility which is certified by the Office of Juvenile Affairs for the temporary detention of juveniles as authorized by the provisions of this section.

1. A municipal juvenile facility shall be certified by the Office of Juvenile Affairs pursuant to the applicable certification standards. The Office of Juvenile Affairs is directed to and shall establish standards for certification of municipal juvenile facilities to include but not be limited to the conditions set forth in subparagraphs a through g of paragraph 4 of subsection B of this section.

2. Each member of the staff of the municipal juvenile facility shall have satisfactorily completed a training program provided or approved by the Office of Juvenile Affairs. The Office of Juvenile Affairs is directed to and shall provide or approve an appropriate training program for staff members of such facilities.

3. A municipality may contract with an independent public or private facility properly certified by the Office of Juvenile Affairs for performance of the detention services authorized by the provisions of this section.

4. The provisions of this section shall not restrict or limit the use of municipal juvenile facilities for detention of juveniles who are detained pursuant to other provisions of law.

5. In no event shall a juvenile be held in an adult facility that does not meet the definition of a municipal juvenile facility.

D. 1. A child less than eighteen (18) years of age may be charged, prosecuted and, if convicted, fined for violating a municipal ordinance; provided, that the maximum fine which may be imposed shall not exceed the maximum fine authorized by law.

2. When assessing punishment, the court also may require appropriate community service work, not to exceed ninety (90) hours, in lieu of or in addition to a fine if the product of multiplying the number of hours of community service work by the prevailing minimum wage plus any fine imposed does not result in a number which exceeds the maximum fine authorized by law, or restitution, or both community service work and restitution. The court may also impose costs as authorized by law.

3. If the child fails to complete the community service, a parent or guardian of the child who knew or should have known that the child failed to complete the community service may be fined an amount equal to the number of community service hours that are not completed by the child multiplied by the hourly minimum wage amount.

4. In addition, during any calendar year that any child:

a. fails to appear for a court date on more than one occasion,

b. is convicted of two or more of the municipal offenses, which offenses occurred on different days, or

c. fails to pay any fine or cost properly assessed by a municipal court,

and after the expiration of ninety (90) days, the court clerk shall mail notice of such occurrence to the Department of Public Safety, which Department shall thereafter suspend or deny driving privileges for such child for six (6) months. The suspension may be modified as provided in Section 6-107.2 of Title 47 of the Oklahoma Statutes. In addition, the court may require the child to receive counseling or other community-based services, as necessary.

E. If a child is prosecuted for an offense in a municipal court, the child shall not be prosecuted for the offense in the district court.

F. Any fines and costs properly assessed against any child and which remain unpaid after three (3) months may be assessed by the municipal judge against the parent of the child, parents, legal guardian or legal custodian and collected and paid as provided for in Articles XXVII and XXVIII of Title 11 of the Oklahoma Statutes. Provided however, prior to such latter assessment, the court clerk shall give the parent of the child, parents, legal guardian or legal custodian notice by certified mail to their place of residence or personal service of such action proposed to be taken.

G. All municipal arrest records, prosecution records, court records, and court proceedings for cases involving children less than eighteen (18) years of age charged with violating municipal ordinances shall be kept confidential and shall not be open to public inspection except by order of the municipal court or as otherwise provided by Chapter 6 of this Code and Section 620.6 of Title 10 of the Oklahoma Statutes. Municipal conviction records involving children less than eighteen (18) years of age convicted of violating municipal ordinances shall be open to public inspection.

H. Funds generated from fines paid pursuant to an interlocal agreement between a municipality and the district court shall be earmarked and used by the municipality only for the following purposes:

1. To fund local programs which address problems of juvenile crime;

2. To fund the costs of prosecutions authorized pursuant to the provisions of this section;

3. To fund the costs of detention authorized pursuant to the provisions of this section;

4. To fund administrative costs related to local programs that address problems of juvenile crime or related to the prosecution, detention, or punishment authorized pursuant to the provisions of this section; and

5. To fund the costs of community intervention centers authorized pursuant to Section 9 of this act.

Such earmarked funds shall not be used by the municipality for any purpose other than the purposes set forth in paragraphs 1 through 5 of this subsection. **(10A-2-2-103)**

Section 229.2. Student Participation in Volunteer Disaster Service Programs.

A. 1. As used in this subsection, "disaster" means disasters designated at level III and above in the American Red Cross Regulations and Procedures.

* * * *

D. School administrators are encouraged to allow students, sixteen (16) years of age or older to be out of school to participate in volunteer disaster service programs. **(74-840-2.24)**

Section 230. Outreach Programs to Parents.

A. It shall be a policy of the State Board of Education to encourage each public school to explore outreach opportunities such as agreements with the parents of each child enrolled in school.

1. Such agreement may describe the beneficial relationship between parental interest and pupil achievement and provide an agreement that a child will achieve higher levels of competency if parents will guarantee that their child will attend school, behave satisfactorily while there, and compete homework. As part of the agreement, the school may state its intention to provide free remediation if a child fails to attain the necessary standards of competency.

2. Such agreement may also emphasize the importance of parent-teacher conferences. The agreement should note the days of the school year reserved for professional meetings and staff development and state that on these days teachers are available to meet with parents. Teachers should also be encouraged to schedule conferences to accommodate working parents. Teachers should strive to hold at least one conference with each student's parents at least once each semester.

B. The State Board of Education also shall require each local board of education to develop initiatives to promote schools as congenial places for parents to visit.

C. The State Board of Education shall also establish a program for encouraging private employers to give employees who have children in preschool programs, kindergarten, or school programs time off to visit the schools for parent-teacher conferences at least once each semester. **(70-10-105.2)**

Section 231. Parents Education Program.

A. The State Board of Education shall develop and implement a program of parent education which provides practical information and guidance to parents regarding the development of language, cognition, social skills, and motor development of young children. The program shall be phased in so that services will be available to parents of children under age three (3) in school districts identified by the Board as having the greatest numbers of children whose education is considered to be high challenge. As funds are available, beginning with the 1992-93 school year, the Board shall expand the program so that services will be available to the school sites identified by the Board as having the greatest percentage of children qualifying for the free or reduced school lunch program. The Board shall expand the program each year if funding is available to ensure that a parent education program is available to all school districts. In evaluating new funding requests, priority consideration shall be given to programs demonstrating the greatest need combined with the greatest commitment of community, foundation, and corporate support.

B. The program shall emphasize the importance of the parents of children as a child's first and most influential teachers. The parent education programs currently offered in other states should be examined as possible models for the Oklahoma program.

C. The State Board of Education shall contract with an organization to provide for technical assistance for a field operations center to coordinate the Oklahoma Parents as Teachers Program. To be eligible for a technical assistance contract, an applicant must be an affiliate member of a national organization or association providing parent education training, must have at least two (2) years' experience in implementation of a Parents as Teachers Program, and must have at least one staff member with a degree above the baccalaureate level who has expertise in Child Development or Early Childhood Education. Technical assistance shall include assistance with training on program organization, management, implementation, and fundraising techniques for groups seeking to implement Parents as Teachers Programs and existing Parents as Teachers Programs throughout the state. The technical assistance provider shall compile a report, utilizing data collected from the State Department of Education and the Child Service Demonstration Center, on the status of Parents as Teachers Programs in Oklahoma, including the locations and descriptions of the programs, the sources of funding for the programs, and pending applications for funding. The report shall be filed on or before April 1 of each year with the Governor, the Legislature, and the State Board of Education. **(70-10-105.3)**

Section 231.1. Pilot Early Childhood Program.

The State Board of Education shall establish a pilot early childhood program to consist of private donations and state funds that will serve at-risk children in at least one urban area and one rural area of this state to be selected by the Board. The Board shall solicit applications from the private sector for the program and require applicants to match state funds on a two-to-one basis and commit a minimum investment of Ten Million Dollars ($10,000,000.00) in the program. **(70-10-105.4)**

Section 232. Records of Attendance of Pupil.

It shall be the duty of the principal or head teacher of each public, private or other school in the State of Oklahoma to keep a full and complete record of the attendance of all children at such school and to notify the attendance officer of the district in which such school is located of the absence of such children from the school together with the causes thereof, if known; and it shall be the duty of any parent, guardian or other person having charge of any child of compulsory attendance age to notify the child's teacher concerning the cause of any absences of such child. It shall be the duty of the principal or head teacher to notify the parent, guardian or responsible person of the absence of the child for any part of the school day, unless the parent, guardian or other responsible person notifies the principal or head teacher of such absence. Such attendance officer and teacher shall be required to report to the school health officer all absences on account of illness with such information respecting the same as may be available by report or investigation; and the attendance officer shall, if justified by the circumstances, promptly give to the parent, guardian or custodian of any child who has not complied with the provisions of this article oral and documented or written warning to the last-known address of such person that the attendance of such child is required at some public, private or other school as herein provided. If within five (5) days after the warning has been received, the parent, guardian or custodian of such child does not comply with the provisions of this article, then such attendance officer shall make complaint against the parent, guardian or custodian of such child in a court of competent jurisdiction for such violation, which violation shall be a misdemeanor. If a child is absent without valid excuse four (4) or more days or parts of days within a four-week period or is absent without valid excuse for ten (10) or more days or parts of days within a semester, the attendance officer shall notify the parent, guardian or custodian of the child and immediately report such absences to the district attorney in the county wherein the school is located for juvenile proceedings pursuant to Title 10A of the Oklahoma Statutes. **(70-10-106)**

232.1 Duties and Responsibilities of Attendance Officers.

It shall be the duty of the attendance officer of each school district to carry out the duties and responsibilities required of the attendance officers by Section 34 of this act. If the attendance officer is unable to carry out the duties and responsibilities, the school district superintendent shall be charged with such duties and responsibilities. Documentation of enrollment status shall be provided to a student by the school district last attended by the student and shall be based upon the last semester's attendance if the student requires documentation during a time when school is not in session. **(70-10-106.1)**

Note: See Section 819.2.

Section 233. Rules and Regulations.

In any matter pertaining to the duties of the attendance officer and keeping records thereof, the board of education of the district shall make rules and regulations subject only to the limitations of the regulations of the State Board of Education and of the law, which shall have the force and effect of law, and all attendance officers are hereby required to comply with all such rules and regulations the same as if they had been specifically mentioned herein. **(70-10-107)**

Section 234. Travel Expenses of Attendance Officer.

The attendance officer or assistants shall receive, in addition to their salaries, all necessary travel expenses incurred by them in the performance of their official duties. **(70-10-108)**

Section 235. Temporary Custody and Detention of Pupil.

A. An attendance officer, any school administrator, or designee of the school administrator who is employed by the school, or any peace officer may, except for children being home schooled pursuant to Section 10-105 of the Oklahoma

Statutes, temporarily detain and assume temporary custody of any child subject to compulsory full-time education, during hours in which school is actually in session, who is found away from the home of such child and who is absent from school without lawful excuse within the school district that such attendance officer, peace officer or school official serves, if said school district has previously approved the temporary detention and custody pursuant to this section.

B. Any person temporarily detaining and assuming temporary custody of a child pursuant to this section shall immediately deliver the child either to the parent, guardian, or other person having control or custody of the child, or to the school from which the child is absent without valid excuse, or to a nonsecure youth service or community center servicing the school district, or to a community intervention center, as defined by Section 2-1-103 of Title 10A of the Oklahoma Statutes.

C. The temporary custody or detention provided by this section shall be utilized as a means of reforming and returning the truant students to school and shall not be used as a pretext for investigating criminal matters. The temporary custody or detention herein provided is a severely limited type of detention and is not justified unless there are specific facts causing an attendance officer or other authorized person to reasonably suspect that a truancy violation is occurring and that the person the officer intends to detain is a truant. **(70-10-109)**

Section 236. Superintendent's Duty to Report Children Not Attending School.

It is hereby declared to be the duty of the superintendent of the school district in which the child resides, together with the truant and probation officers, to report to the district court the names of all children who are neglected or dependent and who are not attending school as provided by law, and upon the filing of such report, the judge of the district court shall cause the probation officer to serve notice upon the parents, guardian, or other person having such children in charge.

It shall be the duty of the probation officer under such notice, to investigate the condition of such children and to report the same to the judge of the district court. Upon such information, the judge of the district court may, if he deems it proper, cause such child or children to be placed in said schools and homes under the provisions of this act. **(10-135)**

Section 237. Sectarian or Religious Doctrines - Teaching.

No sectarian or religious doctrine shall be taught or inculcated in any of the public schools of this state, but nothing in this section shall be construed to prohibit the reading of the Holy Scriptures. **(70-11-101)**

> Churches cannot be permitted to conduct prayer meetings and religious instruction in public school building during school day. *AG Op. April 10, 1959*

Section 238. Voluntary Prayer in School.

The board of education of each school district shall permit those students and teachers who wish to do so to participate in voluntary prayer. Nothing in this act shall be construed to be in conflict with Section 11-101 of Title 70 of the Oklahoma Statutes. **(70-11-101.1)**

> Prayer at graduation ceremonies is prohibited. *Lee v. Weisman*, 112 S.Ct. 2649, 505 U.S. _____(1992)
>
> One-minute period of silence in public school "for meditation or voluntary prayer" is unlawful. U.S. Supreme Court. *Wallace v. Jaffree,* 472 U.S. 38 (1985)
>
> Bible reading and prayer in public school classrooms is unconstitutional. *School District of Abington Township v. Schempp*, 374 U.S. 203 (1963)
> Prayer in classroom, even if voluntary, is unconstitutional. *Engel v. Vitale*, 370 U.S. 421 (1962)

Section 238.1. Minute of Silence.

The board of education of each school district shall ensure that the public schools within the district observe approximately one minute of silence each day for the purpose of allowing each student, in the exercise of his or her individual choice, to reflect, meditate, pray, or engage in any other silent activity that does not interfere with, distract, or impede other students in the exercise of their individual choices.

The Attorney General of the State of Oklahoma is hereby authorized to intervene in any legal proceeding to enforce the provisions of this act and shall represent any school district or employee named as a defendant therein. Any school district or employee named as a defendant in any proceeding to enforce the provisions of this act shall within five (5) days of receiving service of summons notify the Attorney General of the State of Oklahoma of the pendency of the action. **(70-11-101.2)**

Section 239. Instruction Conducted in English Language.

Instruction given in the several branches of learning in the public schools shall be conducted in the English language except as is necessary for the teaching of foreign languages. **(70-11-102)**

Native American languages can be taught as subjects. *AG Op. October 2, 1975*

Section 240. Courses of Study.

A. Courses of instruction approved by the State Board of Education for use in school years prior to 1993-94 shall be those courses that are necessary to ensure:

1. The teaching of the necessary basic skills of learning and communication, including reading, English, writing, the use of numbers and science; and

2. The teaching of citizenship in the United States, in the State of Oklahoma, and in other countries, through the study of the United States Constitution, the amendments thereto, and the ideals, history, and government of the United States, other countries of the world, and the State of Oklahoma and through the study of the principles of democracy as they apply in the lives of citizens. In study of the United States Constitution, a written copy of the document itself shall be utilized.

The public school districts of this state shall ensure that each child enrolled therein is provided with adequate instruction in the basic skills as set out in paragraphs 1 and 2 of this subsection. Each local board of education shall annually evaluate the district's curriculum in order to determine whether each child in the district is receiving adequate basic skill instruction as set out in paragraphs 1 and 2 of this subsection. The evaluation process shall provide for parental involvement. Effective July 1, 1990, each district shall submit its annual evaluation of the district's curriculum to the State Board of Education. The State Board shall make this information available to the Oklahoma Curriculum Committee and, beginning with the 1996-97 school year, shall utilize such information in its periodic evaluation of curriculum.

B. Courses approved by the State Board of Education for instruction of pupils in the public schools of the state for use in school years prior to 1993-94 may include courses that are approved by a local board of education and are necessary to ensure:

1. The teaching of health through the study of proper diet, the effects of alcoholic beverages, narcotics and other substances on the human system and through the study of such other subjects as will promote healthful living and help to establish proper health habits in the lives of school children;

2. The teaching of safety through training in the driving and operation of motor vehicles and such other devices of transportation as may be desirable and other aspects of safety which will promote the reduction of accidents and encourage habits of safe living among school children;

3. The teaching of physical education to all physically able students during the entire school year from first through sixth grade, through physical education, a weekly minimum of seventy-five (75) minutes per student, exclusive of recess activity, supervised play, intramural, interschool athletics or other extracurricular activities; provided, any student participating as a member of any school athletic team shall be excused from physical education classes; provided further, that certified physical education instructors shall not be required to administer the programs required for grades one through six. An elective program of instructional physical education designed to provide a minimum of one hundred fifty (150) minutes per week per student shall be provided for all students in the seventh grade through the twelfth grade. The State Board of Education shall prescribe qualifications for physical education instructors. Provided, however, that the State Department of Education shall be empowered to exempt all or a portion of this requirement if an undue hardship would result to the school district. Provided, further, that any student who has exceptional talent in music may, with the

approval of the superintendent of schools in independent districts or in elementary districts, substitute a course in music for the above-required physical education course;

4. The teaching of the conservation of natural resources of the state and the nation that are necessary and desirable to sustain life and contribute to the comfort and welfare of the people now living and those who will live here in the future, such as soil, water, forests, minerals, oils, gas, all forms of wildlife, both plant and animal, and such other natural resources as may be considered desirable to study;

5. The teaching of vocational education, by the study of the various aspects of agriculture, through courses and farm youth organizations, such as FFA and 4-H clubs, homemaking and home economics, trades and industries, distributive education, mechanical and industrial arts and such other aspects of vocational education as will promote occupational competence among school children and adults as potential and actual citizens of the state and nation; and

6. The teaching of such other aspects of human living and citizenship as will achieve the legitimate objectives and purposes of public education. **(70-11-103)**

Section 240.1. Quality Afterschool Opportunities Act.

This act shall be known and may be cited as the "Quality Afterschool Opportunities Act to Reduce Childhood Obesity and Improve Academic Performance". **(63-1-559.2a)**

Section 240.2. Obesity - Risks.

A. The Legislature recognizes that:

1. Childhood obesity poses a major risk to the health and future of Oklahoma's children, and this challenge must be addressed through a comprehensive approach that includes parents, schools, child care providers, community- and faith-based organizations, health care professionals, civic leaders and many others; and

2. Evidence-based nutrition education and increased physical activity are well-established means of addressing the problem, but not all Oklahoma families are able to take advantage of opportunities to provide these benefits for their children.

B. It is the intent of the State Legislature that support shall be provided to established afterschool programs to fully integrate evidence-based obesity prevention and reduction curriculum that includes structured opportunities for increasing physical activity and promoting healthy eating and nutrition habits.

C. A successful Quality Afterschool Opportunities Initiative will require the resources, expertise and collaboration of a variety of state agencies, including the State Department of Health, the State Department of Education and the Department of Human Services, with advice and guidance from a statewide nonprofit afterschool network. **(63-1-559.2b)**

Section 240.3. Creation of Quality Afterschool Opportunities Initiative.

A. In order to combat the increasing rate of childhood obesity in the state, the State Department of Health shall create the Quality Afterschool Opportunities Initiative to Reduce Childhood Obesity and Improve Academic Performance. This initiative shall establish and maintain a program to award grants, should funds become available, to comprehensive, community-based afterschool programs that include evidence-based obesity reduction components.

B. The Department shall, at a minimum:

1. Develop an application process;

2. Determine minimum eligibility requirements for applicants;

3. Develop procedures and criteria for awarding grants; and

4. Determine the minimum and maximum amounts to be awarded.

C. The State Board of Health shall promulgate rules as necessary to implement the provisions of this act. **(63-1-559.2c)**

Section 241. American Sign Language.

American Sign Language is hereby recognized as a language art and may be taught in the public schools of the state in educational programs for both hearing and deaf students. American Sign Language classes taught in the public schools may be counted by a public school in fulfilling elective course offerings and shall be granted the same credit as a foreign language. For the purposes of this section, American Sign Language may be taught in the public schools by any qualified teacher under the supervision of a certified teacher. **(70-11-103.1)**

Note: See Section 845 – American Sign Language – Course Credit

Section 242. Academic Scholars in Secondary Schools.

The State Board of Education shall have authority to develop and implement a program for the purpose of recognizing academic scholars in the secondary schools of the state. The State Board of Education shall determine the requirements which are necessary for a student to attain academic scholar status. The requirements shall include but not be limited to the minimum graduation requirements set by the State Board of Education. Recognition for academic scholar status shall be indicated upon the diploma of those students who qualify for such status and in such other manner as the Board may determine. The State Board of Education shall be authorized to promulgate rules and regulations in order to implement the provisions of this section. **(70-11-103.2)**

Section 242.1. Repealed.

Section 242.2. Repealed.

Section 243. AIDS Prevention Education.

A. Acquired immune deficiency syndrome (AIDS) prevention education shall be taught in the public schools of this state. AIDS prevention education shall be limited to the discussion of the disease AIDS and its spread and prevention. Students shall receive such education:

1. at the option of the local school district, a minimum of once during the period from grade five through grade six;

2. a minimum of once during the period from grade seven through grade nine; and

3. a minimum of once during the period from grade ten through grade twelve.

B. The State Department of Education shall develop curriculum and materials for AIDS prevention education in conjunction with the State Department of Health. A school district may also develop its own AIDS prevention education curriculum and materials. Any curriculum and materials developed for use in the public schools shall be approved for medical accuracy by the State Department of Health. A school district may use any curriculum and material which have been developed and approved pursuant to this subsection.

C. School districts shall make the curriculum and materials that will be used to teach AIDS prevention education available for inspection by the parents and guardians of the students that will be involved with the curriculum and materials. Furthermore, the curriculum must be limited in time frame to deal only with factual medical information for AIDS prevention. The school districts, at least one (1) month prior to teaching AIDS prevention education in any classroom, shall conduct for the parents and guardians of the students involved during weekend and evening hours at least one presentation concerning the curriculum and materials that will be used for such education. No student shall be required to participate in AIDS prevention education if a parent or guardian of the student objects in writing to such participation.

D. AIDS prevention education shall specifically teach students that:

1. engaging in homosexual activity, promiscuous sexual activity, intravenous drug use or contact with contaminated blood products is now known to be primarily responsible for contact with the AIDS virus;

2. avoiding the activities specified in paragraph 1 of this subsection is the only method of preventing the spread of the virus;

3. sexual intercourse, with or without condoms, with any person testing positive for human immunodeficiency virus (HIV) antibodies, or any other person infected with HIV, places that individual in a high risk category for developing AIDS.

E. The program of AIDS prevention education shall teach that abstinence from sexual activity is the only certain means for the prevention of the spread or contraction of the AIDS virus through sexual contact. It shall also teach that artificial means of birth control are not a certain means of preventing the spread of the AIDS virus and reliance on such methods puts a person at risk for exposure to the disease.

F. The State Department of Health and the State Department of Education shall update AIDS education curriculum material as newly discovered medical facts make it necessary. **(70-11-103.3)**

Section 243.1. Achieving Classroom Excellence Act of 2005.

A. This act shall be known and may be cited as the "Achieving Classroom Excellence Act of 2005".

B. For purposes of the Achieving Classroom Excellence Act of 2005:

1. "Remediation" means supplemental instruction or assistance provided to those students who scored unsatisfactory or limited knowledge on the seventh-grade criterion-referenced tests in reading and mathematics, eighth-grade criterion-referenced tests in reading and mathematics, or any end of instruction test; and

2. "Intervention" means supplemental instruction or assistance provided to those students in grades 6 through 12 prior to administration of a criterion-referenced test or end of instruction test who are at risk of scoring unsatisfactory or limited knowledge. **(70-1210.521)**

Note: Amended by HB 1917, Sec. 1 of the 2011 Reg. Sess.

Section 243.2. Eighth-Grade Student Mastery.

A. Except as provided in subsection D of this section, every public school student shall demonstrate mastery of the state academic content standards in reading and mathematics by the end of the student's seventh-grade year, beginning in the 2006-07 school year. To demonstrate mastery of reading and mathematics, a student shall attain at least a proficient score on the seventh-grade criterion-referenced tests in reading and mathematics administered pursuant to Section 1210.508 of this title. Each student who does not score at least at the proficient level shall be provided remediation or intervention for the purpose of assisting the student in performing at least at the proficient level on the eighth-grade criterion-referenced tests in reading and mathematics.

B. Except as provided in subsection D of this section, beginning in the 2007-08 school year, each student who does not score at least at the proficient level on the eighth-grade criterion-referenced tests in reading and mathematics shall be provided remediation or intervention for the purpose of assisting the student in performing at least at the proficient level on the end-of-instruction tests administered in high school.

C. Remediation and intervention may be provided by means which may include, but are not limited to, extended time during the school day, a summer academy, tutoring, online coursework, or other supplementary services. The State Department of Education shall provide information about best practices for remediation and interventions. School districts will monitor results of the remediation and interventions implemented and report the findings to the State Department of Education.

D. 1. Students who have individualized education programs pursuant to the Individuals with Disabilities Education Act (IDEA) shall have an appropriate statement on the student's individualized education program requiring

administration of the assessment with or without accommodations or an alternate assessment. Any accommodations normally employed for the assessment shall be approved by the State Board of Education and be provided for in the individualized education program. All documentation for each student shall be on file in the school prior to administration of the assessment.

2. Students identified as English language learners shall be assessed in a valid and reliable manner with the state academic assessments with acceptable accommodations as necessary or, to the extent practicable, with alternate assessments aligned to the state assessment provided by the school district in the language and form most likely to yield accurate data of the student's knowledge of the content areas. **(70-1210.522)**

Note: Amended by HB 1917, Sec. 2 of the 2011 Reg. Sess.

Section 243.3. Student Mastery – High School Diploma.

A. Except as provided in subsections D and E of this section, beginning with students entering the ninth grade in the 2008-2009 school year, every student shall demonstrate mastery of the state academic content standards in the following subject areas in order to graduate from a public high school with a standard diploma:

1. Algebra I;

2. English II; and

3. Two of the following five:

   a. Algebra II,

   b. Biology I,

   c. English III,

   d. Geometry, and

   e. United States History.

B. To demonstrate mastery, the student shall attain at least a proficient score on the end-of-instruction criterion-referenced tests administered pursuant to Section 1210.508 of this title.

C. Notwithstanding any other provision of law, students who do not attain at least a proficient score on any end-of-instruction test shall be provided remediation or intervention and the opportunity to retake the test until at least a proficient score is attained on the tests of Algebra I, English II and two of the tests required in paragraph 3 of subsection A of this section or an approved alternative test. Technology center schools shall be authorized to provide intervention and remediation in Algebra I, Algebra II, Geometry, English II, English III, United States History, and Biology I to students enrolled in technology center schools, with the approval of the independent school district board.

D. 1. Students who do not meet the requirements of subsection A of this section may graduate from a public high school with a standard diploma by demonstrating mastery of state academic content standards by alternative methods as approved by the State Board of Education.

2. The State Board of Education shall adopt rules providing for necessary student exceptions and exemptions to the requirements of this section. The Board shall collect data by school site and district on the number of students provided and categories of exceptions and exemptions granted. Beginning October 1, 2012, the Board shall provide an annual report of this data to the Governor, President Pro Tempore of the State Senate and Speaker of the House of Representatives.

E. 1. Students who have individualized education programs pursuant to the Individuals with Disabilities Education Act (IDEA) shall have an appropriate statement on the student's individualized education program requiring administration of the assessment with or without accommodations or an alternate assessment. Any accommodations

normally employed for the assessment shall be approved by the State Board of Education and be provided for in the individualized education program. All documentation for each student shall be on file in the school prior to administration of the assessment.

2. Students identified as English language learners shall be assessed in a valid and reliable manner with the state academic assessments with acceptable accommodations as necessary or, to the extent practicable, with alternate assessments aligned to the state assessment provided by the school district in the language and form most likely to yield accurate data of the student's knowledge of the content areas.

F. The State Board of Education shall be authorized to contract with an entity to develop and advise on the implementation of a communications campaign to build public understanding of and support for the testing requirements of this section. **(70-1210.523)**

Note: Amended by HB 1917, Sec. 3 of the 2011 Reg. Sess.

Section 243.4. Participation in Scientifically Based Research Program.

Every school district, school, administrator, teacher, and student of the public school system in this state may choose to participate in scientifically based research designed for the purpose of improving academic achievement in accordance with all relevant state and federal laws.

The State Board of Education shall adopt rules necessary to implement the provisions of this section. **(70-1210.524)**

Section 244. Curricular Standards and Options for High School Graduation.

A. The State Board of Education shall adopt curricular standards for instruction of students in the public schools of this state that are necessary to ensure there is attainment of desired levels of competencies in a variety of areas to include language, mathematics, science, social studies and communication. All students shall gain literacy at the elementary and secondary levels through a core curriculum. Students must develop skills in reading, writing, speaking, computing and critical thinking. They also must learn about cultures and environments - their own and those of others with whom they share the earth. Students, therefore, must study social studies, literature, languages, the arts, mathematics and science. Such curricula shall provide for the teaching of a hands-on career exploration program in cooperation with technology center schools. The core curriculum shall be designed to teach the competencies for which students shall be tested as provided in Section 1210.508 of this title, and shall be designed to prepare all students for employment and/or postsecondary education.

B. Beginning with students entering the ninth grade in the 2006-07 school year and subject to the provisions of subsection C of this section, in order to graduate from a public high school accredited by the State Board of Education with a standard diploma, students shall complete the following college preparatory/work ready curriculum units or sets of competencies at the secondary level:

1. Four units of English to include Grammar, Composition, Literature, or any English course approved for college admission requirements;

2. Three units of mathematics, limited to Algebra I, Algebra II, Geometry, Trigonometry, Math Analysis, Calculus, Advanced Placement Statistics, or any mathematics course with content and/or rigor above Algebra I and approved for college admission requirements;

3. Three units of laboratory science, limited to Biology, Chemistry, Physics, or any laboratory science course with content and/or rigor equal to or above Biology and approved for college admission requirements;

4. Three units of history and citizenship skills, including one unit of American History, ½ unit of Oklahoma History, ½ unit of United States Government and one unit from the subjects of History, Government, Geography, Economics, Civics, or Non-Western culture and approved for college admission requirements;

5. Two units of the same foreign or non-English language or two units of computer technology approved for college admission requirements, whether taught at a high school or a technology center school, including computer

programming, hardware, and business computer applications, such as word processing, databases, spreadsheets, and graphics, excluding keyboarding or typing courses;

6. One additional unit selected from paragraphs 1 through 5 of this subsection or career and technology education courses approved for college admission requirements; and

7. One unit or set of competencies of fine arts, such as music, art, or drama, or one unit or set of competencies of speech.

C. Beginning with students entering the ninth grade in the 2006-07 school year, in lieu of the requirements of subsection B of this section which requires a college preparatory/work ready curriculum, 1a student may enroll in the core curriculum as provided in subsection D of this section upon written approval of the parent or legal guardian of the student. School districts may require a parent or legal guardian of the student to meet with a designee of the school prior to enrollment in the core curriculum. The State Department of Education shall develop and distribute to school districts a form suitable for this purpose, which shall include information on the benefits to students of completing the college preparatory/work ready curriculum as provided for in subsection B of this section.

D. For students who entered the ninth grade prior to the 2006-07 school year and for those students subject to the requirements of subsection C of this section, in order to graduate from a public high school accredited by the State Board of Education with a standard diploma, students shall complete the following core curriculum units or sets of competencies at the secondary level:

1. Language Arts – 4 units or sets of competencies, to consist of 1 unit or set of competencies of grammar and composition, and 3 units or sets of competencies which may include, but are not limited to, the following courses:

a. American Literature,

b. English Literature,

c. World Literature,

d. Advanced English Courses, or

e. other English courses with content and/or rigor equal to or above grammar and composition;

2. Mathematics – 3 units or sets of competencies, to consist of 1 unit or set of competencies of Algebra I or Algebra I taught in a contextual methodology, and 2 units or sets of competencies which may include, but are not limited to, the following courses:

a. Algebra II,

b. Geometry or Geometry taught in a contextual methodology,

c. Trigonometry,

d. Math Analysis or Precalculus,

e. Calculus,

f. Statistics and/or Probability,

g. Computer Science,

h. contextual mathematics courses which enhance technology preparation whether taught at a:

(1) comprehensive high school, or

(2) technology center school when taken in the eleventh or twelfth grade, taught by a certified teacher, and approved by the State Board of Education and the independent district board of education,

i. mathematics courses taught at a technology center school by a teacher certified in the secondary subject area when taken in the eleventh or twelfth grade upon approval of the State Board of Education and the independent district board of education, or

j. equal to or above Algebra I;

3. Science – 3 units or sets of competencies, to consist of 1 unit or set of competencies of Biology I or Biology I taught in a contextual methodology, and 2 units or sets of competencies in the areas of life, physical, or earth science or technology which may include, but are not limited to, the following courses:

a. Chemistry I,

b. Physics,

c. Biology II,

d. Chemistry II,

e. Physical Science,

f. Earth Science,

g. Botany,

h. Zoology,

i. Physiology,

j. Astronomy,

k. Applied Biology/Chemistry,

l. Applied Physics,

m. Principles of Technology,

n. qualified agricultural education courses,

o. contextual science courses which enhance technology preparation whether taught at a:

(1) comprehensive high school, or

(2) technology center school when taken in the eleventh or twelfth grade, taught by a certified teacher, and approved by the State Board of Education and the independent district board of education,

p. science courses taught at a technology center school by a teacher certified in the secondary subject area when taken in the eleventh or twelfth grade upon approval of the State Board of Education and the independent district board of education, or

q. other science courses with content and/or rigor equal to or above Biology I;

4. Social Studies – 3 units or sets of competencies, to consist of 1 unit or set of competencies of United States History, ½ to 1 unit or set of competencies of United States Government, ½ unit or set of competencies of Oklahoma History, and ½ to 1 unit or set of competencies which may include, but are not limited to, the following courses:

a. World History,

b. Geography,

c. Economics,

d. Anthropology, or

e. other social studies courses with content and/or rigor equal to or above United States History, United States Government, and Oklahoma History; and

5. Arts – 2 units or sets of competencies which may include, but are not limited to, courses in Visual Arts and General Music.

E. 1. In addition to the curriculum requirements of either subsection B or D of this section, in order to graduate from a public high school accredited by the State Board of Education students shall complete the requirements for a personal financial literacy passport as set forth in the Passport to Financial Literacy Act and any additional course requirements or recommended elective courses as may be established by the State Board of Education and the district school board. School districts shall strongly encourage students to complete two units or sets of competencies of foreign languages and two units or sets of competencies of physical and health education.

2. No student shall receive credit for high school graduation more than once for completion of the same unit or set of competencies to satisfy the curriculum requirements of this section.

3. A school district shall not be required to offer every course listed in subsections B and D of this section, but shall offer sufficient courses to allow a student to meet the graduation requirements during the secondary grade years of the student.

F. For purposes of this section:

1. "Contextual methodology" means academic content and skills taught by utilizing real-world problems and projects in a way that helps students understand the application of that knowledge;

2. "Qualified agricultural education courses" means courses that have been determined by the State Board of Education to offer the sets of competencies in the Priority Academic Student Skills (PASS), as adopted by the Board, for one or more science content areas and which correspond to academic science courses. Qualified agricultural education courses shall include, but are not limited to, Horticulture, Plant and Soil Science, Natural Resources and Environmental Science, and Animal Science. The courses shall be taught by teachers certified in agricultural education and comply with all rules of the Oklahoma Department of Career and Technology Education;

3. "Rigor" means a level of difficulty that is appropriate for the grade level and that meets state and/or national standards;

4. "Sets of competencies" means those skills and competencies that are specified in the Priority Academic Student Skills (PASS), as adopted by the State Board of Education, subchapter 5, Chapter 15, Title 210 of the Oklahoma Administrative Code, and other skills and competencies adopted by the Board; and

5. "Unit" means a Carnegie Unit as defined by the North Central Association's Commission on Schools.

G. 1. The State Board of Education shall adopt a plan to ensure that rigor is maintained in the content, teaching methodology, level of expectations for student achievement, and application of learning in all the courses taught to meet the graduation requirements as specified in this section.

2. The State Board of Education shall allow as much flexibility at the district level as is possible without diminishing the rigor or undermining the intent of providing these courses. To accomplish this purpose, the State Department of Education shall work with school districts in reviewing and approving courses taught by districts that are not specifically listed in subsections B and D of this section. Options may include, but shall not be limited to, courses taken by concurrent enrollment, advanced placement, or correspondence, or courses bearing different titles.

3. Technology center school districts may offer programs designed in cooperation with institutions of higher education which have an emphasis on a focused field of career study upon approval of the State Board of Education and the independent district board of education. Students in the tenth grade may be allowed to attend these programs for up to one-half (½) of a school day and credit for the units or sets of competencies required in paragraphs 2 and 3 of subsection B or D of this section shall be given if the courses are taught by a teacher certified in the secondary subject area; provided, credit for units or sets of competencies pursuant to subsection B of this section shall be approved for college admission requirements.

4. If a student enrolls in a concurrent course, the school district shall not be responsible for any costs incurred for that course, unless the school district does not offer enough course selection during the student's secondary grade years to allow the student to receive the courses needed to meet the graduation requirements of this section. If the school district does not offer the necessary course selection during the student's secondary grade years, it shall be responsible for the cost of resident tuition at an institution in The Oklahoma State System of Higher Education, fees, and books for the concurrent enrollment course, and providing for transportation to and from the institution to the school site.

It is the intent of the Legislature that for students enrolled in a concurrent enrollment course which is paid for by the school district pursuant to this paragraph, the institution charge only the supplementary and special service fees that are directly related to the concurrent enrollment course and enrollment procedures for that student. It is further the intent of the Legislature that fees for student activities and student service facilities, including the student health care and cultural and recreational service fees, not be charged to such students.

5. Credit for the units or sets of competencies required in subsection B or D of this section shall be given when such units or sets of competencies are taken in the seventh or eighth grades if the teachers are certified or authorized to teach the subjects for high school credit and the required rigor is maintained.

6. Beginning with ninth-grade students enrolled in the 2008-2009 school year, the three units or sets of competencies in mathematics required in subsection B or D of this section shall be completed in the ninth through twelfth grades; provided, if a student completes any required courses in mathematics prior to ninth grade, the student may take any other mathematics courses to fulfill the requirement to complete three units in grades nine through twelve after the student has satisfied the requirements of subsection B or D of this section.

7. All units or sets of competencies required for graduation may be taken in any sequence recommended by the school district.

H. As a condition of receiving accreditation from the State Board of Education, all students in grades nine through twelve shall enroll in a minimum of six periods, or the equivalent in block scheduling, of rigorous academic and/or rigorous vocational courses each day, which may include arts, vocal and instrumental music, speech classes, and physical education classes.

I. 1. Academic and vocational-technical courses designed to offer sets of competencies integrated or embedded within the course that provide for the teaching and learning of the appropriate skills and knowledge in the Priority Academic Student Skills (PASS), as adopted by the State Board of Education, may upon approval of the Board be counted for academic credit and toward meeting the graduation requirements of this section.

2. Internet-based courses offered by a technology center school that are taught by a certified teacher and provide for the teaching and learning of the appropriate skills and knowledge in the PASS may, upon approval of the State Board of Education and the independent district board of education, be counted for academic credit and toward meeting the graduation requirements of this section.

3. Internet-based courses or vocational-technical courses utilizing integrated or embedded skills for which no Priority Academic Student Skills have been adopted by the State Board of Education may be approved by the Board if such courses incorporate standards of nationally recognized professional organizations and are taught by certified teachers.

4. Courses offered by a supplemental education organization that is accredited by a national accrediting body and that are taught by a certified teacher and provide for the teaching and learning of the appropriate skills and knowledge in the PASS may, upon approval of the State Board of Education and the school district board of education, be counted for academic credit and toward meeting the graduation requirements of this section.

J. The State Board of Education shall provide an option for high school graduation based upon attainment of the desired levels of competencies as required in tests pursuant to the provisions of Section 1210.508 of this title. Such option shall be in lieu of the amount of course credits earned.

K. The State Board of Education shall prescribe, adopt and approve a promotion system based on the attainment by students of specified levels of competencies in each area of the core curriculum.

L. Children who have individualized education programs pursuant to the Individuals with Disabilities Education Act (IDEA), and who satisfy the graduation requirements through the individualized education program for that student shall be awarded a standard diploma.

M. For students who enter the ninth grade in or prior to the 2007-08 school year who are enrolled in an alternative education program and meet the requirements of their plans leading to high school graduation developed pursuant to Section 1210.568 of this title shall be awarded a standard diploma.

N. Any student who completes the curriculum requirements of the International Baccalaureate Diploma Program shall be awarded a standard diploma.

O. Any student who successfully completes an advanced mathematics or science course offered pursuant to Section 1210.404 of this title shall be granted academic credit toward meeting the graduation requirements pursuant to paragraph 2 or 3, as appropriate, of subsection B or D of this section.

P. For purposes of this section, the courses approved for college admission requirements shall be courses which are approved by the Oklahoma State Regents for Higher Education for admission to an institution within The Oklahoma State System of Higher Education.

Q. The State Department of Education shall collect and report data by school site and district on the number of students who enroll in the core curriculum as provided in subsection D of this section. **(70-11-103.6)**

This section requires all school districts to offer those courses mandated by this section during the high school career of students. A school district may join one or more districts in cooperative agreements in order to ensure that the core curriculum mandates necessary for graduation are met. *September 27, 1999 (AG Op. No. 99-64)*

Students with disabilities who are on IEP's may be exempted from core curriculum mandates when determined by the IEP team on a student-by-student basis. *September 27, 1999 (AG Op. No. 99-64)*

The core curriculum mandates of this section may be met by concurrent enrollment. If a student voluntarily enrolls in an approved college course and the school district offers the core curriculum course during the student's high school career, the student is responsible for the costs of enrollment and related costs. If the school district only offers concurrent enrollment as the sole means of meeting core curriculum mandates, then the costs of the concurrent enrollment are the responsibility of the school district. *September 27, 1999 (AG Op. No. 99-64)*

Section 244.0. Achieving Classroom Excellence Steering Committee.

A. There is hereby created to continue until December 31, 2009, the Achieving classroom Excellence (ACE) Steering Committee. The Committee shall assist the State Board of Education with implementation of the student assessment requirements enacted pursuant to the Achieving Classroom Excellence Act of 2005. The ACE Steering Committee shall advise the Board on the following:

1. Curriculum alignment of third through eighth grade and high school subjects which are assessed pursuant to Section 1210.508 of Title 70 of the Oklahoma Statutes;

2. Review of existing and development of new assessments;

3. Determination of cut scores for required assessments;

4. Alternate tests or assessments which equal or exceed the rigor of the end-of-instruction assessments. The Steering Committee shall:

a. evaluate alternate tests including, but not limited to, the ACT assessment, the Advanced Placement (AP) tests, the Scholastic Aptitude Test (SAT), the International Baccalaureate (IB) Program assessments, WorkKeys assessments, Compass tests, and the Test of Adult Basic Education (TABE),

b. develop a list of career and technology education state and national tests that may serve as alternatives, provided the test is a state and/or national business and industry-recognized test that results in a business and industry-endorsed recognized credential. The list of tests developed shall be forwarded to the State Board of Career and Technology Education for consideration and approval. The tests approved by the State Board of Career and Technology Education shall be forwarded to the State Board of Education for consideration and approval, and

c. determine if each alternate test evaluated is standardized, independently graded, knowledge-based, and administered on a multistate or international level. The Steering Committee shall also study and recommend the minimum score or level of mastery needed to pass each alternate test;

5. Intervention and remediation strategies and delivery methods for students who do not meet the mandated standard; and

6. Consequences for eighth-grade students who do not meet the mandated standard.

B. The membership of the ACE Steering Committee shall be composed as follows:

1. The Chair of the State Senate Education Committee, or designee;

2. The Chair of the Oklahoma House of Representatives Common Education Committee, or designee;

3. One member of the State Senate to be appointed by the minority leader of the Senate, or designee;

4. One member of the Oklahoma House of Representatives to be appointed by the minority leader of the House of Representatives, or designee;

5. One representative of the private business sector selected from the Governor's Council on Workforce and Economic Development to be appointed by the Governor;

6. The State Superintendent of Public Instruction, or designee;

7. The Director of the State Department of Career and Technology Education, or designee;

8. The Chancellor of the Oklahoma State Regents for Higher Education, or designee;

9. Four faculty members from institutions within The Oklahoma State System of Higher Education with expertise in the curriculum areas of mathematics, English, science and social studies, to be appointed by the Chancellor of the Oklahoma State Regents for Higher Education;

10. One superintendent of a technology center to be appointed by the Director of the Oklahoma Department of Career and Technology Education;

11. The State Superintendent of Public Instruction shall appoint one representative from each of the following:

a. a statewide organization representing rural schools,

b. a statewide organization representing rural elementary schools,

c. a statewide organization representing suburban schools,

d. a statewide organization representing secondary school principals,

e. a statewide organization representing parent-teacher organizations,

f. a statewide organization representing school administrators,

g. a statewide association representing teachers,

h. a statewide federation representing teachers,

i. a statewide association representing professional educators,

j. nonaffiliated teachers,

k. a statewide organization representing school board members, and

l. a statewide coalition representing business and education; and

12. The State Superintendent may also appoint interested members who served on the ACE Task Force created pursuant to the Achieving Classroom Excellence Act of 2005.

C. The State Superintendent of Public Instruction shall serve as chair of the ACE Steering Committee. Staffing shall be provided by the State Department of Education. Vacancies shall be filled in the same manner as the original appointment.

D. The ACE Steering Committee shall present a written report of recommendations to the State Board of Education, the Legislature, and the Governor annually, beginning December 1, 2006, with a final report presented by December 31, 2009.

E. The ACE Steering Committee members shall receive no compensation for serving on the committee but may receive travel reimbursement as follows:

1. Legislative members of the committee may be reimbursed for necessary travel expenses incurred in the performance of duties, in accordance with Section 456 of Title 74 of the Oklahoma Statutes, from the legislative body in which they serve; and

2. Other members of the committee may be reimbursed for necessary travel expenses incurred in the performance of duties by the respective appointing authorities in accordance with the State Travel Reimbursement Act. **(70-1210-525)**

Section 244.1. Funding for Remediation.

A. Contingent on the provision of appropriated funds designated for the Achieving Classroom Excellence Act of 2005, school districts shall be eligible for funding as follows:

1. A maximum of Two Hundred Forty Dollars ($240.00) for remediation or intervention for each subject-specific test by a student that resulted in a score at the unsatisfactory level and for which the student has been found to be in need of remediation or intervention pursuant to Sections 1210.522 and 1210.523 of Title 70 of the Oklahoma Statutes;

2. A maximum of One Hundred Eighty Dollars ($180.00) for remediation or intervention for each subject-specific test by a student that resulted in a score at the limited knowledge level and for which the student has been found to be in need of remediation or intervention pursuant to Sections 1210.522 and 1210.523 of Title 70 of the Oklahoma Statutes;

3. Funds for remediation or intervention as provided for in paragraphs 1 and 2 of this subsection shall be disbursed by the State Department of Education by September 1 of each year and shall be based on the most recent test results available from the previous school year or summer test administration; and

4. Claims for reimbursement for costs associated with administration of alternative assessments as required by Section 1210.523 of Title 70 of the Oklahoma Statutes shall be filed with the State Department of Education at the end of each school semester or prior to the end of the fiscal year in which the alternative assessment is provided. Claims from summer alternative assessment administration provided in July or August shall be filed with the first semester claim of the subsequent school year. Claims shall be reimbursed in a timely manner.

B. Funds for remediation or intervention as provided for in subsection A of this section may be used to provide remediation or intervention to any student in grade 6 through grade 12 who has been determined to be in need of remediation or intervention, including but not limited to those students who have scored at the unsatisfactory or limited knowledge level.

C. Remediation and intervention provided pursuant to this section by school districts shall be for the purpose of assisting students in performing at least at the satisfactory level on the applicable criterion-referenced tests in reading and mathematics at the eighth-grade level, or the applicable end-of-instruction tests as required in Section 1210.523 of Title 70 of the Oklahoma Statutes, or an alternative assessment if eligible. Remediation and intervention may be provided by means which may include, but are not limited to, tutoring, additional help during the school day, extended-day programs, Saturday programs, summer programs, online coursework, or other supplementary services which are provided on an individual basis or in a classroom setting.

D. School districts shall report on their use of funds for remediation and intervention as provided for in this section to the State Board of Education in a manner prescribed by the Board.

E. The State Board of Education shall promulgate rules to implement the provisions of this section. **(70-1210.526)**

Note: Amended by HB 1917, Sec. 4 of the 2011 Reg. Sess.

Section 244.1.1. Mentorship Programs to Reduce Drop-out Rates.

A. The State Department of Education shall encourage school boards and districts to develop mentorship programs aimed at reducing drop-out rates. The goal of these programs shall be to identify middle school and high school students who are at a high risk for leaving school before they obtain their high school diploma and providing these students with comprehensive prevention and intervention programs.

B. Mentors should work with identified students to assist in the following:

1. Transitioning from middle school to high school;

2. Creation of personal graduation plans;

3. Counseling of students on the consequences of dropping out;

4. Beginning career exploration with students at an earlier age;

5. Informing parents and students regarding the impact of middle school grades on high school placement and achievement;

6. Providing students with guidance in selecting courses; and

7. Providing students with tutoring and extra academic assistance as needed. **(70-1210.527)**

Section 245. Review of Curricular Standards by the State Board of Education.

A. Each area of subject matter curriculum, except for technology curriculum, adopted by the State Board of Education for implementation by the beginning of the 2003-04 school year shall be thoroughly reviewed by the State Board every six (6) years according to and in coordination with the existing subject area textbook adoption cycle, and the State Board shall implement any revisions in such curriculum deemed necessary to achieve further improvements in the quality of education for the students of this state.

B. By August 1, 2010, the State Board of Education shall adopt revisions to the subject matter curriculum adopted by the State Board for English Language Arts and Mathematics as is necessary to align the curriculum with the K-12 Common Core State Standards developed by the Common Core State Standards Initiative, an effort coordinated by the National Governors Association Center for Best Practices and the Council of Chief State School Officers. The revised curriculum shall reflect the K-12 Common Core State Standards in their entirety and may include additional standards

as long as the amount of additional standards is not more than fifteen percent (15%) of the K-12 Common Core State Standards. **(70-11-103.6a)**

Section 245.1. Social Studies Core Curriculum.

A. The State Board of Education shall adopt a social studies core curriculum with courses of instruction for all students enrolled in the public schools that reflect the racial, ethnic, religious, and cultural diversity of the United States of America. The United States history and Oklahoma history components required in the social studies curriculum for all students shall include, but not be limited to, African Americans, Native Americans, and Hispanic Americans.

B. The State Textbook Committee, when adopting textbooks, shall incorporate the provisions of subsection A of this section into the criteria used to evaluate United States history and Oklahoma history textbooks. Any United States history or Oklahoma history textbook on the state adopted textbook list shall conform to the purposes of this act. The State Textbook Committee shall ensure that all social studies textbooks and supplementary materials selected to be purchased with state funds for use in Oklahoma classrooms reflect the racial, ethnic, religious, and cultural diversity of the United States.

C. It is the intent of the Legislature that a portion of the state funds appropriated for professional development in local school districts be used for workshops, seminars, guest lecturers, and other methods which further the purposes of this act. **(70-11-103.6b)**

Section 245.2. Certificates of Distinction.

A. District boards of education may develop and issue a certificate of distinction that is to be awarded to students, beginning with students in the 2000-2001 high school graduating class who have met or exceeded the following criteria by the end of their senior year in high school with at least a 3.25 grade point average on a 4.0 scale:

1. Earned four units each in English, mathematics, social studies, and science;

2. Earned two additional units in the area of technology, the humanities, or the arts;

3. Earned two units in a foreign language; and

4. Achieved a satisfactory score, or its equivalent, on all end-of-instruction tests as required pursuant to Section 1210.508 of Title 70 of the Oklahoma Statutes, as those tests are implemented.

B. For purposes of this section, applicable vocational-technical classes offered by comprehensive high school vocational-technical programs shall qualify for technology, science, and mathematics units. Students enrolled in the programs may use one unit of their six concentrated vocational-technical curriculum units for one unit of mathematics required by this section and one unit of their six concentrated vocational-technical curriculum units for one unit of science required by this section. Advanced placement classes in the subject areas listed in paragraphs 1, 2, and 3 of subsection A of this section may be substituted on a course-by-course basis to satisfy the academic units required for a certificate of distinction.

C. For purposes of this section, "unit" means a Carnegie Unit as defined by the North Central Association's Commission on Schools. **(70-11-103.6c)**

Section 245.3. Honors Courses.

Any school district offering courses labeled as honors courses must ensure that teachers of such honors courses are certified to teach in the subject area of the course in order to label the course an honors course**. (70-11-103.6c)**

Section 245.4. Certificates of Distinction - Admission Standards.

Colleges and universities shall not make holding a certificate of distinction a part of their admission standards. **(70-11-103.6d)**

Section 245.5. Exceptions to Graduation Requirements.

A. Prior to September 1, 2003, the State Board of Education shall adopt rules to ensure that students who transfer into an Oklahoma school district from out of state after the junior year of high school of the student shall not be denied, due to differing graduation requirements, the opportunity to be awarded a standard diploma.

B. The rules shall allow district boards of education to make exceptions on an individual student basis to the high school graduation requirements of Section 11-103.6 of Title 70 of the Oklahoma Statutes for such students who would be unable to meet the specific graduation requirements without extending the date of graduation. Each district board of education that grants exceptions pursuant to this subsection shall report to the State Department of Education on or before July 1 of each year the number of students granted exceptions and reasons for the exceptions. **(70-11-103.6f)**

Section 245.6. Financial Literacy Act.

Section 2 of this act shall be known and may be cited as the "Passport to Financial Literacy Act". **(70-11-103.6g)**

Section 245.6.a. Instruction.

A. Personal financial literacy education shall be taught in the public schools of this state. Personal financial literacy education shall include, but is not limited to, the following areas of instruction:

1. Understanding interest, credit card debt, and on-line commerce;

2. Rights and responsibilities of renting or buying a home;

3. Savings and investing;

4. Planning for retirement;

5. Bankruptcy;

6. Banking and financial services;

7. Balancing a checkbook;

8. Understanding loans and borrowing money, including predatory lending and payday loans;

9. Understanding insurance;

10. Identity fraud and theft;

11. Charitable giving;

12. Understanding the financial impact and consequences of gambling;

13. Earning an income; and

14. Understanding state and federal taxes.

B. Beginning with students entering the seventh grade in the 2008-2009 school year, in order to graduate from a public high school accredited by the State Board of Education with a standard diploma, students shall fulfill the requirements for a personal financial literacy passport. The requirements for a personal financial literacy passport shall be satisfactory completion in all areas of instruction in personal financial literacy as listed in subsection A of this section during grades seven through twelve.

C. Beginning with the 2008-2009 school year, school districts shall provide instruction in personal financial literacy to students during grades seven through twelve. School districts shall have the option of determining when each area of instruction listed in subsection A of this section shall be presented to students.

D. Personal financial literacy instruction shall be integrated into one or more existing courses of study or provided in a separate personal financial literacy course. School districts shall have the option of determining into which course or courses each area of instruction listed in subsection A of this section shall be integrated.

E. The State Board of Education shall identify and adopt curriculum standards for personal financial literacy instruction that reflect the areas of instruction listed in subsection A of this section. The standards shall be incorporated into the state academic content standards adopted by the Board pursuant to Section 11-103.6 of Title 70 of the Oklahoma Statutes and known as the Priority Academic Student Skills Curriculum.

F. The State Department of Education shall:

1. Develop guidelines and material designed to enable schools to infuse personal financial literacy within any course of study currently offered by the school district or offer personal financial literacy as a separate course. The guidelines shall outline the areas of instruction to be taught based on the curriculum standards adopted by the Board;

2. Develop professional development programs that are designed to help teachers provide instruction in personal financial literacy and incorporate the curriculum into an existing course or courses or develop curriculum for a separate personal financial literacy course; and

3. Provide resources, including on-line modules, for integrating the teaching of personal financial literacy into an existing course or courses of study or for developing a separate personal financial literacy course. The on-line modules shall include an assessment component for each area of instruction listed in subsection A of this section.

G. The Department may work with one or more not-for-profit organizations that have proven expertise in the development of standards and curriculum and delivery of teacher professional development in personal financial literacy for the purpose of developing and providing guidelines, materials, resources, including on-line modules, and professional development.

H. 1. For students who transfer into an Oklahoma school district from out of state after the seventh grade, school districts shall assess the knowledge of the student in each of the areas of instruction listed in subsection A of this section. If the school district determines that the transferred student has successfully completed instruction in any or all of the areas of personal financial literacy instruction at a previous school in which the student was enrolled or if the student demonstrates satisfactory knowledge of any or all of the areas of personal financial literacy instruction through an assessment, the school district may exempt the student from completing instruction in that area of personal financial literary instruction. School districts may use the assessment contained in the on-line modules provided by the State Department of Education pursuant to subsection F of this section to determine the personal financial literacy knowledge level of the student. School districts may also use the on-line modules to present an area of instruction to transferred students who have not completed or who did not demonstrate satisfactory knowledge in one or more of the areas of personal financial literacy instruction.

2. For students who transfer into an Oklahoma school district from out of state after the junior year of high school, school districts may make an exception to the requirements for a personal financial literacy passport pursuant to the provisions of Section 11-103.6 of Title 70 of the Oklahoma Statutes.

I. The State Textbook Committee created in Section 16-101 of Title 70 of the Oklahoma Statutes may, when selecting textbooks for mathematics, economics, or similar courses, select those textbooks which contain substantive provisions on personal finance. **(70-11-103.6h)**

Section 245.6.b. Social Studies – Incorporate Murrah Federal.

A. The State Board of Education shall adopt a social studies core curriculum with courses of instruction in Oklahoma history for all students enrolled in the public schools that incorporates information about the April 19, 1995, bombing of the Alfred P. Murrah Federal Building in Oklahoma City and the role it played in the history of Oklahoma

and the nation from April 19, 1995, to the present. A study of the bombing and its aftermath can help students learn the impact of violence, the senselessness of using violence to solve problems or change their government, and the importance of personal responsibility.

B. The State Department of Education may make program materials and resources concerning the April 19, 1995, bombing of the Alfred P. Murrah Federal Building in Oklahoma City provided by the Oklahoma City National Memorial and Museum available to the public schools of this state.

C. The State Textbook Committee, when adopting textbooks, shall incorporate the provisions of subsection A of this section into the criteria used to evaluate United States history and Oklahoma history textbooks. **(70-11-103.6i)**

Section 246. Early Childhood Education Program.

A. Each school district may offer to four-year-old children the opportunity to participate in an early childhood education program.

B. The State Board of Education shall promulgate standards for early childhood education programs for children who are at least four (4) years of age on or before September 1 of the ensuing school year. The standards shall include both half-day programs consisting of not less than two and one-half (2 ½) hours per school day, and full-day programs of six 6) hours. The standards for all early childhood education programs shall require a certified teacher, as specified in this section, to be present in the classroom for the length of the school day. Such program shall:

1. Be directed toward developmentally appropriate objectives for such children, rather than toward academic objectives suitable for older children;

2. Accommodate the needs of all children and families regardless of socio-economic circumstances; and

3. Require that any teacher employed by a public school to teach in such early childhood education program shall be certified in early childhood education.

C. The superintendent of any school district providing classroom space or other school facilities for a federally sponsored Head Start program that is planning to make a material change in the arrangement, shall give notice to the director of the Head Start program at least seven (7) days prior to a school board hearing on the matter.

D. A school district may offer such early childhood education program within the district, in cooperation with other districts, through the use of transfers as specified by law, or by contracting with a private or public provider of early childhood education programs, or by contracting for classroom space with a licensed public or private child care provider based upon selection criteria established by the district. If the program is provided through contract with a private or public provider other than a school district, the contract may only be continued if each teacher serving the school on and after January 1, 1993 is certified in early childhood education, except that all teachers, without such certification, hired by such provider prior to January 1, 1993, and serving in the school as an early childhood education teacher shall be required to obtain certification on or before the beginning of the 1996-97 school year. Any person who has been employed as an early childhood educator with the Head Start Program, has a child development associate degree (CDA) and has at least five (5) years of experience in such employment shall be certified in early childhood education for purposes of employment in the public schools of this state to teach in early childhood education for children four (4) years of age and younger; if such person is recertified in child development by the Council for Early Childhood Professional Recognition within five (5) years prior to the expiration of the person's early childhood certificate that was issued by the State Board of Education, such person shall be granted a renewal certificate in early childhood education by the State Board of Education upon expiration of the early childhood certificate. Provided, private or public providers shall meet such other standards required by law and by the State Board of Education.

E. If an early childhood program is provided by a private or public provider pursuant to a contract as authorized in this section, the contract shall address the requirements for implementing the residency program for resident teachers as required in Section 6-195 of this title. Teachers employed by a private or public provider in an early childhood education program provided through contact with a public school district shall receive in salary and/or fringe benefits amounts not less than the amounts specified in the schedule set forth in Section 18-114.7 of this title.

F. The State Board of Education shall promulgate rules to provide for the implementation of such program.

G. An early childhood education program may be offered jointly by school districts that have formed interlocal cooperative agreements pursuant to Section 5-117b of this title.

H. The term "pre-kindergarten" shall mean early childhood education for purposes of this title. **(70-11-103.7)**

Section 246.1. Ebonics Not to be Taught.

Ebonics shall not be recognized as a language art and shall not be taught as a course or class in the public schools of the state for which a student receives credit or which is counted towards fulfilling graduation requirements. For purposes of this section, "Ebonics" means an Africanized form of English reflecting Black Americans' linguistic-cultural ties to their African heritage. Ebonics may also be known as Black English or Black dialect. **(70-11-103.8)**

Section 246.2. Physical Education Programs.

A. Except as otherwise provided for in this section, the State Board of Education shall require, as a condition of accreditation, that school districts provide to all students physical education programs which may include athletics.

B. The Board shall require, as a condition of accreditation, that public elementary schools provide instruction, for students in full-day kindergarten and grades one through five, in physical education or exercise programs for a minimum of an average of sixty (60) minutes each week. The time students participate in recess shall not be counted toward the sixty-minutes-per-week physical education requirement. Schools may exclude from participation in the physical education or exercise programs required in this subsection those students who have been placed into an in-house suspension or detention class or placement or those students who are under an in-school restriction or are subject to an administrative disciplinary action.

C. The Board shall require, as a condition of accreditation, that public elementary schools provide to students in full-day kindergarten and grades one through five, in addition to the requirements set forth in subsection B of this section, an average of sixty (60) minutes each week of physical activity, which may include, but not be limited to, physical education, exercise programs, fitness breaks, recess, and classroom activities, and wellness and nutrition education. Each school district board of education shall determine the specific activities and means of compliance with the provisions of this subsection, giving consideration to the recommendations of each school's Healthy and Fit Schools Advisory Committee as submitted to the school principal pursuant to the provisions of Section 24-100a of this title.

D. The Board shall disseminate information to each school district on the benefits of physical education programs and shall strongly encourage districts to provide physical education instruction to students in grades six through twelve. The Board shall also strongly encourage school districts to incorporate physical activity into the school day by providing to students in full-day kindergarten and grades one through five at least a twenty-minute daily recess, which shall be in addition to the sixty (60) minutes of physical education as required by subsection B of this section, and by allowing all students brief physical activity breaks throughout the day, physical activity clubs, and special events.

E. School districts shall provide to parents or guardians of students a physical activity report. The report shall be provided to parents and guardians at least annually and shall include:

1. A summary on how physical activity is being incorporated into the school day;

2. A summary of the types of physical activities the students are exposed to in the physical education programs;

3. Suggestions on monitoring the physical activity progress of a child and how to encourage regular participation in physical activity; and

4. Information on the benefits of physical education and physical activity.

F. Instruction in physical education required in this section shall be aligned with the Priority Academic Student Skills as adopted by the Board.

G. The physical education curriculum shall be sequential, developmentally appropriate, and designed, implemented, and evaluated to enable students to develop the motor and self-management skills and knowledge necessary to participate

in physical activity throughout life. Each school district shall establish specific objectives and goals the district intends to accomplish through the physical education curriculum.

H. In identifying the essential knowledge and skills, the State Board of Education shall ensure that the Priority Academic Student Skills for physical education:

1. Emphasizes the knowledge and skills capable of being used during a lifetime of regular physical activity;

2. Is consistent with national physical education standards for:

a. the information that students should learn about physical activity, and

b. the physical activities that students should be able to perform;

3. Requires that, on a weekly basis, at least fifty percent (50%) of the physical education class be used for actual student physical activity and that the activity be, to the extent practicable, at a moderate or vigorous level;

4. Offers students an opportunity to choose among many types of physical activity in which to participate;

5. Offers students both cooperative and competitive games;

6. Meets the needs of students of all physical ability levels, including students who have a disability, chronic health problem, or other special need that precludes the student from participating in regular physical education instruction but who might be able to participate in physical education that is suitably adapted and, if applicable, included in the student's individualized education program;

7. Teaches self-management and movement skills;

8. Teaches cooperation, fair play, and responsible participation in physical activity;

9. Promotes student participation in physical activity outside of school; and

10. Allows physical education classes to be an enjoyable experience for students.

I. The Board shall adopt rules to implement the provisions of this section.**(70-11-103.9)**

Section 247. Program Materials Relating to Environmental Issues and Policies.

The State Department of Education may make program materials concerning environmental issues and policies, provided by the Department of Environmental Quality, available to the public schools of this state. **(70-11-103.10)**

Section 247.1. Elective Courses – Religious Literature.

A. A school district may offer to students in grade nine or above:

1. An elective course on the Hebrew Scriptures (Old Testament) and its impact and an elective course on the New Testament and its impact; or

2. An elective course that combines the courses described in paragraph 1 of this subsection.

B. The purposes of courses authorized by this section are to:

1. Teach students knowledge of biblical content, characters, poetry, and narratives that are prerequisites to understanding contemporary society and culture, including literature, art, music, mores, oratory, and public policy; and

2. Familiarize students with, as applicable:

a. the contents of the Hebrew Scriptures or New Testament,

b. the history of the Hebrew Scriptures or New Testament,

c. the literary style and structure of the Hebrew Scriptures or New Testament, and

d. the influence of the Hebrew Scriptures or New Testament on law, history, government, literature, art, music, customs, morals, values, and culture.

C. The Bible shall be the primary text of the course and may be supplemented with additional resources. The primary text for the course will be a parallel translation Bible or multi-translation Bible that uses more than one translation for side-by-side comparison chosen by the school district. However, a student may not be required to use a specific translation as the sole text of the Hebrew Scriptures or New Testament and may use as the basic textbook a different translation of the Hebrew Scriptures or New Testament from that chosen by the district board of education or the student's teacher.

D. A course offered pursuant to this section shall follow applicable law and all federal and state guidelines in maintaining religious neutrality and accommodating the diverse religious views, traditions, and perspectives of students in the school district. A course offered pursuant to this section shall not endorse, favor, or promote, or disfavor or show hostility toward, any particular religion or nonreligious faith or religious perspective. Nothing in this section is intended to violate any provision of the United States Constitution or federal law, the Oklahoma Constitution or any state law, or any rules or guidelines provided by the United States Department of Education or the State Department of Education.

E. A teacher of a course offered pursuant to this section must be certified to teach social studies or literature. **(70-11-103.11)**

Section 248. Military and Athletic Training - Assistance.

The board of education of any school district is hereby authorized to provide for military training, athletic training and physical examination of pupils in such district, and is hereby authorized to accept assistance from the United States Secretary of Defense and National Department of Defense or any branch thereof or from any other federal agency or from the Oklahoma National Guard, for the purpose of military drill and training. **(70-11-104)**

Section 249. Use of Military Equipment in School Districts.

The governing board of each state educational institution and of each school district in the State of Oklahoma shall have authority to enter into contracts for the use of property and equipment for military training purposes, and shall have authority to give, or cause to be given, bonds or other security as may be required by federal law or regulations of the Secretary of the Army, Navy or Air Force, or other federal officer or agency, for the care and safekeeping of such property and equipment, or for similar purposes; and shall also have authority to make reimbursement for such property and equipment. The cost of such bonds, security and reimbursements shall be paid from funds available for the operation of such institution or school district. **(70-11-105)**

Section 249.1. Sex Education Curriculum and Materials.

A. All curriculum and materials including supplementary materials which will be used to teach or will be used for or in connection with a sex education class or program which is designed for the exclusive purpose of discussing sexual behavior or attitudes, or any test, survey or questionnaire whose primary purpose is to elicit responses on sexual behavior or attitudes shall be available through the superintendent or a designee of the school district for inspection by parents and guardians of the student who will be involved with the class, program or test, survey or questionnaire. Such curriculum, materials, classes, programs, tests, surveys or questionnaires shall have as one of its primary purposes the teaching of or informing students about the practice of abstinence. The superintendent or a designee of the school district shall provide prior written notification to the parents or guardians of the students involved of their right to inspect the curriculum and material and of their obligation to notify the school in writing if they do not want their child to participate in the class, program, test, survey or questionnaire. Each local board of education shall determine the means of providing written notification to the parents and guardian which will ensure effective notice in an efficient and appropriate manner. No student shall be required to participant in a sex education class or program which discusses sexual behavior or attitudes if a parent or guardian of the student objects in writing to such participation. If the type of program referred to in this section is a part of or is taught during a credit course, a student may be required to enroll in the course but shall not be required to receive instruction in or participate in the program if a parent or guardian objects in writing.

B. The superintendent or a designee of a school district in which sex education is taught or a program is offered which is designed for the exclusive purpose of discussing sexual behavior or attitudes shall approve all curriculum and materials which will be used for such education and any test, survey or questionnaire whose primary purpose is to elicit responses on sexual behavior or attitudes use din the school prior to their use in the classroom or school. The teacher involved in the class, program, testing or survey shall submit the curriculum, materials, tests or surveys to the superintendent or designee for approval prior to their use in the classroom or school. The section shall not apply to those students enrolled in classes, programs, testing or surveys offered through an alternative education program. **(70-11-105.1)**

Section 250. Parental Inspection of Certain Materials.

All instructional material, including teachers' manuals, films, tapes or other supplementary instructional material which will be used in connection with any research or experimentation program or project, shall be available for inspection by the parents or guardians of the children engaged in such program or project. For the purpose of this section, "research or experimentation program or project" means any program or project in any applicable program designed to explore or develop new or unproven teaching methods or techniques. **(70-11-106)**

Section 251. Parental Consent Required in Certain Research and Experimental Programs.

Without the prior written consent of the parent or guardian, no student who is an unemancipated minor shall be required, as part of any applicable program, to submit to psychiatric or psychological examination, testing or treatment; nor may any teacher or staff personnel without such consent elicit by written survey or written examination from any student information of a personal or private nature concerning any of the following:

1. Religious beliefs;

2. Mental or psychological problems potentially embarrassing to the student or his family;

3. Sexual behavior and attitudes;

4. Critical appraisals of other individuals with whom the student has a close family relationship;

5. Legally recognized privileged communication. **(70-11-107)**

Section 252. Oklahoma Youth Community Services Act.

This act shall be known and may be cited as the "Oklahoma Youth Community Services Act". **(70-11-108)**

Section 253. Definitions.

As used in this act:

1. "Youth community service program" means a program established by a school district as part of the curriculum for secondary students which includes youth community service activities integrated with study and reflection on the experiences gained through youth community service activities; and

2. "Youth community service activities" means volunteer activities performed by secondary school students through a youth community service program that meet the needs of others in the school or community and are designed to enhance the student's personal growth, career exploration, understanding of community and citizenship, social science skills, and communication skills. **(70-11-108.1)**

Section 254. Youth Community Service Program as Part of Curriculum.

School districts may establish as part of the curriculum a youth community service program for secondary students which includes youth community service activities integrated with study and reflection on the experiences gained through youth community service activities. A student may receive elective credit for participating in a youth community service program as long as the outcomes of the program reflect the competencies outlined in the Oklahoma Learner Outcomes adopted by the State Board of Education. A student may perform youth community service activities for educational credit only under the sponsorship of an organization approved by the State Department of Education. Youth community

service activities shall not be used to displace any employees or reduce the number of hours for which any employee is paid. **(70-11-108.2)**

Section 255. Assistance from State Board of Education.

The State Board of Education may assist school districts with the development of youth community service programs by:

1. Establishing and maintaining a list of acceptable projects with a description of each project, and providing for projects to be placed on the list upon proper application by the local district and evaluation by the State Department of Education;

2. Verifying that community sponsors have filed assurances with the Department of Education that youth community services students are not displacing employees or reducing the hours for which any employee is paid;

3. Assisting school districts in publicizing the youth community service program and in determining whether there is sufficient interest in the district to warrant a youth community service program;

4. Monitoring districts to assure that youth community service programs are established in districts where interest warrants;

5. Evaluating local youth community service programs;

6. Developing in-service training components to be used by local districts for preparation of youth community service program faculty sponsors;

7. Assisting local districts in applying for grants from private or governmental sources for youth community service programs; and

8. For the purpose of implementing this act the State Board of Education shall utilize only grants from private and governmental sources. **(70-11-108.3)**

Section 256. Application for Federal Funds Authorized.

The State Board of Education is authorized to apply for federal funds for the purpose of establishing a program through which local school districts may apply for grants to fund local youth community service programs. **(70-11-108.4)**

Section 256.1. Network for Arts-in-Education Funding.

Funds appropriated to the State Board of Education for the School/Community Network for the Arts-in-Education program shall be awarded to school districts on a competitive application basis in accordance with rules promulgated by the State Board of Education for such purpose. **(70-11-109)**

Section 256.2. Arts-in-Education Program Funding.

Funds appropriated to the State Board of Education for the Arts-in-Education program shall be awarded on a competitive basis to nonprofit organizations for programs serving schools identified by the State Board of Education, pursuant to Section 1210.541 of this title, as being high challenge schools. **(70-11-109.1)**

Section 256.3. Inventory of Coursework for Credit.

The State Board of Education shall conduct an inventory of all coursework approved for credit for graduation in each school district and establish criteria by which such courses are approved.

It is the intent of the Legislature that only academic coursework, including vocational education courses, shall be approved for credit toward graduation. **(70-11-110)**

Section 256.4. College Preparatory Curriculum.

A. Beginning with students entering the ninth grade in the 2006-2007 school year, all students shall complete the following college preparatory curricular requirements:

1. Four units of English to include Grammar, Composition, Literature, or any English course approved for college admission requirements;

2. Three units of laboratory science, limited to Biology, Chemistry, Physics, or any laboratory science course with content and/or rigor equal to or above Biology and approved for college admission requirements;

3. Three units of mathematics, limited to Algebra I, Algebra II, Geometry, Trigonometry, Math Analysis, Calculus, Advanced Placement Statistics, or any mathematics course with content and/or rigor above Algebra I and approved for college admission requirements;

4. Three units of history and citizenship skills, including one unit of American History and two units from the subjects of History, Government, Geography, Economics, Civics, or Non-Western culture;

5. Two units of the same foreign or non-English language or two units of computer technology approved for college admission requirements, whether taught at a high school or a technology center school, including computer programming, hardware, and business computer applications such as word processing, databases, spreadsheets, and graphics, excluding keyboarding or typing courses;

6. One additional unit selected from paragraphs 1 through 5 of this subsection or career and technology education courses approved for college admission requirements; and

7. One unit or set of competencies of fine arts, such as music, art, or drama, or one unit of speech.

B. A student may enroll in a curriculum that does not meet the requirements of subsection A of this section upon approval of the parent or legal guardian of the student. School districts may require a parent or legal guardian of the student to meet with a designee of the school prior to enrollment in such a curriculum. The State Department of Education shall develop and distribute to school districts a form suitable for this purpose which shall include information on the benefits to students of completing the college preparatory curriculum required pursuant to this section.

C. The State Department of Education shall collect and report data by school site and district on the number of students whose parents or legal guardians approve enrollment in other than the college preparatory curriculum required pursuant to this section.

D. Notwithstanding the provisions of this section, in order to graduate from a public high school accredited by the State Board of Education with a standard diploma, students shall continue to be subject to the curricular requirements established pursuant to Section 11-103.6 of Title 70 of the Oklahoma Statutes.

E. For purposes of this section, the courses approved for college admission requirements shall be courses which are approved by the Oklahoma State Regents for Higher Education for admission to an institution within The Oklahoma State System of Higher Education. **(70-11-111)**

Section 257. Program for Audiovisual Education.

The State Board of Education shall have authority to formulate, establish and maintain and cause to be administered a program of audiovisual education for the public schools of the state. **(70-12-101)**

Section 258. Motion Picture Films - State Depository.

The State Board of Education shall have authority to select or cause to be selected motion picture films appropriate to the curriculum of the public schools of Oklahoma, and shall establish and maintain a state depository where all such films shall be kept for assignment. Certain special films may be designated by the State Board of Education to be circulated from the state depository to various schools. **(70-12-102)**

Section 259. Regional Film Libraries.

The State Board of Education shall have authority to establish and maintain regional film libraries. It shall be the responsibility of such regional libraries to receive, maintain, keep a record of and circulate all films received from the state depository and to return such films to the state depository when there is no longer a need therefor in any of the schools served by the regional library or when directed to do so by the State Board of Education and to furnish films to county superintendents of schools and boards of school districts upon written requests therefor. **(70-12-103)**

Section 260. Local Film Library.

Any county or school district or educational institution supported by tax funds may establish and maintain a local film library and shall have authority to expend local funds for such purpose. Monies expended by any county or school district, or by any educational institution supported by tax funds, for the purchase of projection and audio materials approved by the State Board of Education may be matched with state monies appropriated for such purpose, in amounts not to exceed the following: any county, One Thousand Dollars ($1,000.00); any school district or tax supported educational institution employing one (1) to fifty (50) teachers, One Thousand Dollars ($1,000.00); any school district or tax-supported educational institution employing fifty-one (51) to two hundred fifty (250) teachers, Two Thousand Dollars ($2,000.00); and any school district or tax supported educational institution employing more than two hundred fifty (250) teachers, Three Thousand Dollars ($3,000.00). Provided, monies received by a school district under the provisions of this section shall not be considered as a part of its chargeable income for State Aid purposes. **(70-12-104)**

Section 261. Rules and Regulations.

The State Board of Education shall adopt and enforce such rules and regulations as may be necessary to make such program of audiovisual education effective. **(70-12-105)**

Section 262. Board of Education - Purchase or Rental of Projectors and Supplies.

Pursuant to an estimate duly made and approved for such purpose the board of education of any school district, or any two or more school districts in cooperation with each other, may purchase or rent moving picture projectors, either silent or sound; purchase attachments, film splicers or film repair equipment of all types, cable, wire or any and all equipment and materials deemed necessary by said board of education or boards of education for the successful operation and conduct of a visual education program in the schools of such district or districts. **(70-12-107)**

Section 263. Personnel to Administer Provisions of this Article.

The State Board of Education shall appoint, employ and fix the compensation and duties of necessary personnel, and shall incur necessary expenses, to administer and carry out the provisions of this article, and all such compensation and other expenses shall be paid from any funds appropriated to carry out the provisions of this article. **(70-12-108)**

Section 264. Programs for Children with Disabilities.

The several school districts of Oklahoma are hereby authorized to provide special education and related services necessary for children with disabilities as hereinafter defined. Two or more school districts may establish cooperative programs of special education for children with disabilities when such arrangement is approved by the State Board of Education. Funds may be expended for school services for an additional period during the summer months for approved programs for qualified children with disabilities, provided their individualized education program (I.E.P.) states the need for extended school year special education and related services. Children with disabilities shall mean children, as defined in the Individuals with Disabilities Education Act (IDEA), P.L. No. 105-17, who are three (3) years of age.

Provided, on and after July 1, 1991, children from age birth through two (2) years (0-36 months) of age who meet the eligibility criteria specified in Section 13-123 of this title, shall be served pursuant to the provisions of the Oklahoma Early Intervention Act. The attendance of said children in special education classes shall be included in the average daily membership computations for State Aid purposes.

The State Board of Education is authorized to modify and redefine by regulation the eligibility definitions whenever such modification is required to receive federal assistance under the Individuals with Disabilities Education Act (IDEA), P.L. No. 105-17. Rules developed pursuant to Section 18-109.5 of this title shall provide for such modification and revised definitions.

It shall be the duty of each school district to provide special education and related services for all children with disabilities as herein defined who reside in that school district in accordance with the Individuals with Disabilities Education Act (IDEA), P.L. No. 105-17. This duty may be satisfied by:

1. The district directly providing special education for such children;

2. The district joining in a cooperative program with another district or districts to provide special education for such children;

3. The district joining in a written agreement with a private or public institution, licensed residential child care and treatment facility or day treatment facility within such district to provide special education for children who are deaf or hard-of-hearing, children who are blind or partially blind or other eligible children with disabilities; or

4. Transferring eligible children and youth with disabilities to other school districts which accept them and provide special education and related services for such children, with the district in which the child resides paying tuition therefor as hereinafter provided. For those students who transfer pursuant to the provisions of the Education Open Transfer Act, the receiving school district shall assume all responsibility for education and shall count the student for federal and state funding purposes according to the provisions of subsection B of Section 13-103 of this title**. (70-13-101)**

> If the educational services provided by the school district to eligible group home residents include special education services and related services, the services must meet the requirements of the Department of Education's Policies and Procedures for Special Education in Oklahoma. Special education services and related services may include services provided by a school district on-site at a group home for eligible children if indicated in an IEP. (*AG Op. No. 09-15*)

> If a particular therapy, treatment, or support service is not required by an IEP or the school district does not otherwise agree to bear the costs, then the group home provider is responsible for the costs associated with the service. (*AG Op. No. 09-15*)

> A procedural violation of IDEA does not deny a student an educational opportunity, or a free and appropriate education, and thus entitle parents to reimbursement, where the parents did not meaningfully participate in the IEP development process. As the IDEA defines an IEP as a written document, a court should consider only the written IEP when analyzing whether the IEP substantively complies with the IDEA. *Sytsema v. Academy School District No. 20*, 538 F.3d 1306 (10th Cir.2008)

Section 264.1. Lindsey Nicole Henry Scholarships for Students with Disabilities Program Act.

This act shall be known and may be cited as the "Lindsey Nicole Henry Scholarships for Students with Disabilities Program Act". **(70-13-101.1)**

Section 264.2. Lindsey Nicole Henry Scholarships – Implementation.

A. There is hereby created the Lindsey Nicole Henry Scholarships for Students with Disabilities Program. The Lindsey Nicole Henry Scholarships for Students with Disabilities Program is established to provide a scholarship to a private school of choice for students with disabilities for whom an individualized education program (IEP) in accordance with the Individuals with Disabilities Education Act (IDEA) has been developed at any time prior to notifying the State Department of Education of the intent to participate in the Program and the IEP is in effect at the time the request for a scholarship is received by the State Department of Education. Scholarships shall be awarded beginning with the 2010-2011 school year.

B. The parent or legal guardian of a public school student with a disability may exercise their parental option and request to have a Lindsey Nicole Henry Scholarship awarded for the child to enroll in and attend a private school in accordance with this section and the scholarship shall be awarded if:

1. The student has spent the prior school year in attendance at a public school in this state. For purposes of this section, "prior school year in attendance" means that the student was enrolled in and reported by a school district for funding purposes during the preceding school year regardless of whether or not the student had an IEP at the time the student was counted for funding purposes. A student who is a child of a member of the United States Armed Forces who transfers to a school in this state from out of state or from a foreign country pursuant to a permanent change of station orders of the parent shall be exempt from the requirements of this paragraph but shall be required to meet all other eligibility requirements to participate as provided for in this section; and

2. The parent or legal guardian has obtained acceptance for admission of the student to a private school that is eligible for the program as provided in subsection H of this section and has notified the State Department of Education of the request for a scholarship no later than December 1 of the school year during which the scholarship is requested. The request shall be through a communication directly to the Department in a manner that creates a written or electronic record of the request and the date of receipt of the request. The Department shall notify the school district upon receipt of the request. For purposes of continuity of educational choice, the scholarship shall remain in force until the student returns to a public school, graduates from high school or reaches the age of twenty-two (22), whichever occurs first At any time, the parent or legal guardian of the student may remove the student from the private school and place the student in another private school that is eligible for the program as provided in subsection H of this section or place the student in a public school.

C. A student shall be eligible for a scholarship if the parent or legal guardian of the student made a request for a scholarship for the 2010-2011 school year and the student transferred to an eligible private school but was subsequently denied a scholarship because the student did not have an IEP in effect on October 1, 2009, but did meet all other eligibility requirements as set forth in the Lindsey Nicole Henry Scholarships for Students with Disabilities Program Act.

D. A student shall not be eligible for a Lindsey Nicole Henry Scholarship if the student is not having regular and direct contact with the private school teachers at the physical location of the private school.

E. School districts shall notify the parent or legal guardian of a public school student with a disability of all options available pursuant to this section and inform the parent or legal guardian of the availability of information about the program from the State Department of Education through the toll-free telephone number or website. The notification shall be provided with or included in the copy of the "Parents Rights in Special Education: Notice of Procedural Safeguards" document given to parents at least annually or as otherwise required by law.

F. 1. Acceptance of a Lindsey Nicole Henry Scholarship shall have the same effect as a parental refusal to consent to service pursuant to 20 U.S.C., Section 614(a)(1) of the IDEA.

2. Upon acceptance of a Lindsey Nicole Henry Scholarship, the parent or legal guardian shall assume full financial responsibility for the education of the student, including but not limited to transportation to and from the private school.

G. If the parent or legal guardian requests a Lindsey Nicole Henry Scholarship and the student is accepted by the private school pending the availability of a space for the student, the parent or legal guardian of the student shall notify the State Department of Education before entering the private school and before December 1 in order to be eligible for the scholarship during the school year when a space becomes available for the student in the private school. If notification is made after December 1, payment of the scholarship shall not begin until the next school year.

H. To be eligible to participate in the Lindsey Nicole Henry Scholarships for Students with Disabilities Program, a private school shall notify the State Department of Education of its intent to participate. The notice shall specify the grade levels and services that the private school has available for students with disabilities who are participating in the scholarship program. The State Department of Education shall approve a private school as eligible to participate in the scholarship program upon determination that the private school:

1. Meets the accreditation requirements set by the State Board of Education or another accrediting association approved by the State Board of Education;

2. Demonstrates fiscal soundness by having been in operation for one (1) school year or providing the State Department of Education with a statement by a certified public accountant confirming that the private school desiring to participate is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming year by serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected. In lieu of a statement, a surety bond or letter of credit for the amount equal to the scholarship funds for any quarter may be filed with the Department;

3. Complies with the antidiscrimination provisions of 42 U.S.C., Section 2000d;

4. Meets state and local health and safety laws and codes;

5. Will be academically accountable to the parent or legal guardian for meeting the educational needs of the student;

6. Employs or contracts with teachers who hold baccalaureate or higher degrees, or have at least three (3) years of teaching experience in public or private schools, or have special skills, knowledge, or expertise that qualifies them to provide instruction in subjects taught;

7. Complies with all state laws relating to general regulation of private schools; and

8. Adheres to the tenets of its published disciplinary procedures prior to the expulsion of a scholarship student.

I. 1. Lindsey Nicole Henry Scholarship Program participants shall comply with the following:

a. the parent or legal guardian shall select the private school from the schools approved for eligibility pursuant to subsection H of this section and apply for the admission of the child,

b. the parent or legal guardian shall request the scholarship no later than December 1 of the school year during which the scholarship is requested,

c. any student participating in the scholarship program shall attend throughout the school year, unless excused by the school for illness or other good cause, and shall comply fully with the code of conduct for the school,

d. the parent or legal guardian shall fully comply with the parental involvement requirements of the private school, unless excused by the school for illness or other good cause, and

e. upon issuance of a scholarship warrant, the parent or legal guardian to whom the warrant is made shall restrictively endorse the warrant to the private school for deposit into the account of the private school. The parent or legal guardian may not designate any entity or individual associated with the private school as the attorney in fact for the parent or legal guardian to endorse a warrant. A parent or legal guardian who fails to comply with this subparagraph shall forfeit the scholarship.

2. A participant who fails to comply with this subsection forfeits the scholarship.

J. Provisions governing payment of a Lindsey Nicole Henry Scholarship shall be as follows:

1. The State Department of Education shall calculate the total cost of all scholarships for all eligible students in the state. The State Department of Education shall then reserve or retain from the total amount appropriated to the State Board of Education for State Aid purposes and any other revenue available for allocation for State Aid purposes the total cost for all scholarship payments;

2. The maximum scholarship granted for an eligible student with disabilities shall be a calculated amount equivalent to the total State Aid factors for the applicable school year multiplied by the grade and disability weights generated by that student for the applicable school year. The disability weights used in calculating the scholarship amount shall include all disability weights which correspond to the disabilities included in the multidisciplinary evaluation and eligibility group summary for the student at the time the request for a scholarship is made by the parent or legal guardian. The maximum scholarship amount shall be calculated by the State Board of Education for each year the student is participating in the scholarship program;

3. The amount of the scholarship shall be the amount calculated in paragraph 2 of this subsection or the amount of tuition and fees for the private school, whichever is less, minus up to two and one-half percent (2 1/2%) of the scholarship amount which may be retained by the State Department of Education as a fee for administrative services rendered. The amount of any assessment fee required by the private school and the amount associated with providing services and therapies to address the disabilities of the student may be paid from the total amount of the scholarship;

4. The State Department of Education shall notify the private school of the amount of the scholarship within ten (10) days after receiving the request for a scholarship. The initial payment shall be made after the Department verifies admission acceptance and enrollment. Quarterly payments shall be made upon verification of continued enrollment and attendance at the private school. Payment shall be made by the Department with an individual warrant made payable to the parent or legal guardian of the student and mailed by the Department to the private school that the parent or legal

guardian chooses. The parent or legal guardian shall restrictively endorse the warrant to the private school for deposit into the account of the private school;

5. The State Department of Education shall not be responsible for any additional costs associated with special education and related services incurred by the private school for the student including the cost of teachers, equipment, material, and special costs associated with the special education class;

6. The State Department of Education shall establish a toll-free telephone number or website that provides parents or legal guardians and private schools with information about the program;

7. The State Department of Education shall require an annual, notarized, sworn compliance statement by participating private schools certifying compliance with state laws and shall retain all records received from a participating private school; and

8. The State Department of Education shall cross-check the list of participating scholarship students with the public school enrollments prior to each scholarship payment to avoid duplication.

K. 1. The State Superintendent of Public Instruction shall deny, suspend, or revoke the participation of a private school in the scholarship program if it is determined that the private school has failed to comply with the provisions of this section. However, in instances in which the noncompliance is correctable within a reasonable amount of time and in which the health, safety, or welfare of the students is not threatened, the Superintendent may issue a notice of noncompliance which shall provide the private school with a time frame within which to provide evidence of compliance prior to taking action to suspend or revoke participation in the scholarship program.

2. If the Superintendent intends to deny, suspend, or revoke the participation of a private school in the scholarship program, the Department shall notify the private school of the proposed action in writing by certified mail and regular mail to the private school's address of record with the Department. The Department shall also notify any parents or legal guardians of scholarship students attending the private school. The notification shall include the reasons for the proposed action and notice of the timelines and procedures set forth in this subsection.

3. The private school that is adversely affected by the proposed action shall have fifteen (15) days from receipt of the notice of proposed action to file with the Department a request for an administrative hearing proceeding pursuant to the Administrative Procedures Act.

4. Upon receipt of a request for a hearing, the State Board of Education shall commence a hearing within sixty (60) days after the receipt of the formal written request and enter an order within thirty (30) days after the hearing.

5. The Board may immediately suspend payment of scholarship funds if it is determined that there is probable cause to believe that there is an imminent threat to the health, safety, or welfare of the students or fraudulent activity on the part of the private school.

L. No liability shall arise on the part of the state, the State Board of Education, the State Department of Education or a school district based on the award or use of any scholarship provided through the Lindsey Nicole Henry Scholarships for Students with Disabilities Program.

M. The inclusion of private schools within options available to public school students in Oklahoma shall not expand the regulatory authority of the state or any school district to impose any additional regulation of private schools beyond those reasonably necessary to enforce the requirements expressly set forth in this section.

N. If the State Department of Education determines that a school district prior to the effective date of this act has failed to comply with the provisions of the Lindsey Nicole Henry Scholarships for Students with Disabilities Program Act and has failed to make full or partial scholarship payments for eligible students, the Department shall have authority to reduce the amount of State Aid allocated to the school district or require the school district to make repayment to the Department of State Aid allocations in an amount equal to the amount of scholarship payments the school district failed to make. The Department shall make payment to the parent or legal guardian in the amount the school district failed to make in the manner as provided for in subsection J of this section. **(70-13-101.2)**

Note: Amended by HB 1744, Sec. 1 of the 2011 Reg. Sess.

Section 265. Eligible Minimum Period of Attendance.

The determination whether a child is eligible for special education and related services shall be the responsibility of the multidisciplinary evaluation team of the school district in which such child has legal residence in accordance with the provisions of the Individuals with Disabilities Education Act (IDEA), P.L. No. 101-476 and the rules approved by the State Board of Education. The eligibility of children with disabilities shall be reevaluated at least once every three (3) years or more frequently if conditions warrant or if the parent or teacher of the child requests an evaluation as required under the Individuals with Disabilities Education Act (IDEA), P.L. No. 101-476.

Any child determined to be eligible shall be permitted to receive such special education and related services for a minimum period of twelve (12) years. Successful completion of a secondary education program must be determined through the individualized education program (IEP) and transcript records of the student. Eligibility special education and related services shall cease upon a determination and documentation of graduation or completion of a secondary education program in accordance with the IEP. **(70-13-102)**

Section 266. Authorized Provisions for Education of Exceptional Children.

A. Any school district in the state may provide suitable facilities and employ qualified teachers and therapists for children with disabilities, either in schools, classrooms, or in other places as the board of education of the district may deem advisable. When a school district cannot provide special educational facilities and qualified teachers, a child may be transferred pursuant to the provisions of paragraph 4 of Section 13-101 of this title.

B. If a child with disabilities is transferred to a school district other than the district of residence of the child pursuant to the Education Open Transfer Act the following provisions shall apply:

1. The receiving district shall establish availability of the appropriate program, staff, and services prior to approval of the transfer;

2. Prior to the approval of the transfer of a child on an individualized education program (IEP), a joint IEP conference shall be required between the district of residence and the receiving district; and

3. Upon approval of the transfer, the receiving district shall claim the child in the average daily membership for state and federal funding purposes and shall assume all responsibility for education of the child. For state funding purposes, the State Department of Education shall include the appropriate grade level weight and all category weights to which the pupil is assigned pursuant to the provisions of Section 18-201.1 of this title when calculating State Aid pursuant to the provisions of Section 18-200.1 of this title, regardless of whether the receiving district provides education to the student using traditional in-class means or via online instruction. When applicable, the receiving district may apply to the Oklahoma Special Education Assistance Fund for assistance in meeting any extraordinary costs incurred.

C. Transfers authorized by this section shall be made under rules adopted by the State Board of Education. When a child with disabilities or pregnant child is unable to attend any school or class in the district of residency, the board of education of the district may provide for home instruction for the child. The State Board of Education is further authorized to cooperate with any school district in the state to make it possible for a child with disabilities to attend the regular school by making special provisions for the transportation of the child, or for special equipment, devices, books, supplies or other facilities, or for special instruction within the regular school building. The provisions for services and transfers as provided for in this section shall be made with consideration of the least restrictive environment and IEP requirements under the Individuals with Disabilities Education Act (IDEA).

D. Beginning with the 2008-2009 school year, a transfer granted for a child with disabilities pursuant to paragraph 4 of Section 13-101 of this title for three (3) consecutive years to the same school district shall automatically be renewed each year. The district in which the child resides shall continue to pay tuition as provided for in paragraph 4 of Section 13-101 of this title. **(70-13-103)**

Provisions of this Section as to transfers of exceptional children supersede general school transfer statutes. *January 13, 1984 (AG No. Op 83-79)*

Section 267. Special Classes or Individual Instruction for Children in Institutions.

Special classes or individual instruction provided for pretubercular, tubercular, convalescent or other eligible children with orthopedic impairment or other health impairments hospitals, sanatoriums and preventoriums may be maintained by a school district in such institutions within or without the boundaries of such district, and the attendance of pupils therein shall be credited to the district providing such instruction. School districts and such institutions shall enter into written agreements which describe the financial and service responsibilities of each in accordance with state and federal regulations. **(70-13-104)**

Section 268. Qualifications of Teachers and Minimum Requirements.

A. The State Board of Education is hereby authorized in accordance with state and federal law to determine and prescribe the qualifications of all persons who teach children with disabilities, to define, classify and determine standards of eligibility of all children with disabilities to receive special education and related services, to fix minimum requirements for special education and related services of children with disabilities, and to make such rules as it deems necessary for the teaching of children with disabilities.

B. The State Board of Education shall offer all support personnel, including but not limited to assistants who work with a trained paraprofessional or special education teacher for children with multiple disabilities or deaf-blindness, the same training and education as the trained paraprofessional is required to complete. **(70-13-105)**

Section 269. State Appropriations - Distribution.

State monies appropriated to carry out the provisions of laws dealing with the education of children with disabilities shall be apportioned by the State Board of Education among the various school districts of the state providing such education for children with disabilities in accordance with Section 18-201 of this title and with the standards and rules prescribed by the State Board of Education. **(70-13-106)**

Section 270. Federal Funds.

The State Board of Education is hereby empowered to accept and disburse any grants or funds that may be matched by or received from the federal government for the education of exceptional children and to make necessary rules and regulations for such purpose. **(70-13-107)**

Section 271. State Funds - Allowances for Special Education.

A. The State Board of Education is hereby authorized to establish all necessary rules and set the rate of reimbursement for physical and occupational therapists, teachers of homebound children or home-to-school telephone instruction, board and room for transferred children with disabilities to attend a special class, travel for transporting children with disabilities within or without the district, and travel for teachers who are required to travel in fulfilling the services to children with disabilities in homebound, cooperative, or county programs for children with disabilities.

B. The State Board of Education may make provisions for boarding children with disabilities who must be transferred from their home school districts to school districts providing special education and related services, but in no case shall the reimbursement from other state funds for this purpose exceed Four Hundred Fifty Dollars ($450.00) per child per year.

C. The State Board of Education may make provisions and payments therefor from other state funds for the special education of any child with deaf-blindness, deafness or blindness and a resident of the state, in any private or public institution, either inside or outside of the State of Oklahoma, but in no case shall payment from state funds for such special education and related services, including board and room for such child, exceed Five Thousand Dollars ($5,000.00) per child per year.

D. None of the funds received by a school district under the provisions of this section shall be considered as a part of the chargeable income of such district for State Aid purposes. **(70-13-108)**

Handicapped children other than deaf and blind students may be placed outside of the State if necessary to comply with Federal Education For All Handicapped Children's Act. *March 18, 1983 (AG Op. No. 83-5*)

Section 271.1. Education of Homebound Children Funding.

If funds are appropriated to the State Board of Education for reimbursement of the costs of educating Homebound Children as authorized in Section 13-108 of this title, the funds shall be disbursed to school districts through claims filed with the State Board of Education. School districts shall reimburse the necessary travel expenses of teachers incurred in fulfilling the services to homebound children in accordance with the provisions of the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes. **(70-13-108.1)**

Section 272. Personnel to Administer Article.

A. The State Board of Education shall appoint and employ and fix the compensation and duties of necessary personnel and incur other necessary expenses, including cost of consultants, to administer and carry out the provisions of this article, and compensation and other expenses shall be paid from any funds appropriated to carry out the provisions of this article.

B. 1. The State Department of Education shall provide training to special education due process hearing or appeal officials to ensure that, at a minimum, the hearing or appeal officials possess:

a. knowledge of the provisions of the Individuals with Disabilities Education Act (IDEA), federal and state regulations pertaining to the IDEA, and legal interpretations of the IDEA by federal and state courts,

b. knowledge to conduct administrative hearings, and

c. knowledge to render and write decisions.

2. Every person serving as a special education due process hearing or appeal official shall be required to participate in, at a minimum, continuing education courses in special education law and administrative procedures annually to remain eligible for current case assignment. **(70-13-109)**

Section 273. Teachers - Pay.

Qualified and properly certified teachers of special education shall be paid a minimum of five percent (5%) above the prevailing wage paid teachers of children who are nondisabled in the same school district. **(70-13-110)**

Section 274. Register of Children With Disabilities - Needs to be Met.

A. The State Board of Education shall:

1. Maintain a federal child count register of children with disabilities as defined by the Individuals with Disabilities Education Act (IDEA), P.L. No. 101-476, as may be amended, and the implementing federal regulations;

2. Monitor efforts of the local public schools to meet the needs of children with disabilities as provided by each such child's Individualized Education Program; and

3. Coordinate private and public efforts, including efforts of agencies of state and local government to meet educational needs of children with disabilities.

B. The Department of Mental Health and Substance Abuse Services, the State Department of Health, the Department of Human Services, the State Department of Education, and the Oklahoma Department of Career and Technology Education shall jointly develop and implement through interagency memoranda of agreement as authorized in the Interlocal Cooperation Act, Section 1001 of Title 74 of the Oklahoma Statutes, a plan for the coordinated delivery of related services to children with disabilities pursuant to the Act for Coordination of Special Services to Children and Youth. **(70-13-111)**

Section 275. Programs for Children with Visual Impairment.

The State Board of Education is authorized to select school districts in which to establish a special education and related services program for children with visual impairments from the first grade through the ninth grade. The selection of the school districts, the establishment of the special education program and the determination of eligible children shall be in accordance with the provisions of Section 13-101 et seq. of this title, and with the rules to be adopted for such purpose by the State Board of Education. **(70-13-112)**

Section 276. Apportionment and Distribution of Funds.

State monies appropriated to carry out the provisions of this act shall be apportioned by the State Board of Education among the school districts providing a special education and related services program for children with visual impairments. The apportionment and distribution of state funds shall be on a per student basis and in accordance with the rules to be adopted for such purpose by the State Board of Education. **(70-13-113)**

Section 277. Oklahoma Special Education Assistance Fund.

There is hereby created in the State Treasury a revolving fund for the State Board of Education to be designated the "Oklahoma Special Education Assistance Fund". This fund shall be a continuing fund not subject to fiscal year limitations, and shall consist of all monies appropriated or transferred to the fund by the Legislature. Except as otherwise provided in this section, all monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the State Board of Education for the purpose of providing financial assistance to local school districts pursuant to Sections 13-114.2 through 13-114.4 of this title. For the 1992-93 school year, monies may be expended from this fund for the local and state-supported financial support of public schools. Expenditures from said fund shall be made on warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment. **(70-13-114.1)**

Section 278. School District Eligibility.

Pursuant to rules and regulations established by the State Board of Education, a local school district serving a child eligible pursuant to Section 13-114.3 of this title, upon application to the Department of Education, may receive funds from the Oklahoma Special Education Assistance Fund, which shall be used to educate that particular child. The determination whether a school district is eligible to receive funding pursuant to the provisions of Section 13-114.1 of this title shall be made by the State Board of Education. The eligibility of a local school district which is receiving funding pursuant to the provisions of Section 13-114.1 of this title shall be reevaluated for each enrollment of a student on an educational cost basis pursuant to Section 13-114.3 of this title and any monies received from the fund adjusted accordingly. **(70-13-114.2).**

Section 279. Student Eligibility Criteria.

A. A local school district may be eligible to receive monies from the Oklahoma Special Education Assistance Fund to defray costs of serving children who resided at Hissom Memorial Center prior to December 1, 1991, and subsequently established residency in the school district if any such children were served by the district during the 1991-92 school year including extended school year during summer 1992 or the 1992-93 school year including extended school year during summer 1993. Contingent upon available funds in the Oklahoma Special Education Assistance Fund, the district shall receive funds in the amount of the actual costs of serving each child less the district per capita and any other funding received for providing services to the child from another state agency upon timely submission of a claim for such amount, accompanied by verification of residency of each child by the school attendance officer and verification from the Department of Human Services that each child formerly resided at Hissom Memorial Center.

B. If funds remain in the Oklahoma Special Education Assistance Fund after satisfaction of all valid claims submitted pursuant to subsection A of this section, a local school district may be eligible to receive monies from the Oklahoma Special Education Assistance Fund if a child with disabilities who is being served in that school district:

1. Has been placed in out-of-home placement in an entity described in subsection D of Section 1-113 of this title;

2. Has been previously institutionalized; or

3. Requires services pursuant to an individualized education program (IEP) pursuant to the Individuals with Disabilities Education Act (IDEA) which result in extraordinary costs to the providing school district or district of residence. The State Board of Education may promulgate rules to define extraordinary costs, taking into consideration the funding generated by the weighted calculations relating to students with special needs as provided in paragraph 2 of subsection B of Section 18-201.1 of this title.

C. The State Department of Education may prorate any funds allocated pursuant to the provisions of subsection B of this section as necessary, and the State Board of Education is authorized to promulgate rules as necessary to establish priorities in funding for students in this subsection. **(70-13-114.3)**

Section 280. Distribution of Funds.

A. Funds issued from the Oklahoma Special Education Assistance Fund shall be distributed to the local school district in a timely manner as determined by the State Board of Education.

B. The amount of any such payments shall be determined as follows:

1. Payments made pursuant to paragraphs 1 and 2 of subsection A of Section 13-114.3 of this title shall be the actual cost of serving the child as determined by the State Board of Education less the funding to be received by the district through the State Aid Formula, as reduced to include only the number of days the child is included in the district's average daily membership, and any other funding received for providing services to the child from another state agency;

2. For the purposes of this section, the amount to be received through the State Aid formula shall be the weighted average daily membership of the child times the sum of the current year Base Foundation Support Level and the product of the current year Incentive Aid guarantee times twenty (20). (**70-13-114.4)**

Section 280.1. Hissom Compliance Funding.

Funds appropriated to the State Board of Education for Hissom Compliance purposes shall be used to provide resources and programs determined by the Board to be necessary to comply with any federal court order pertaining to Hissom Memorial Center which requires any such resources and programs. **(70-13-114.5)**

Section 280.2. Oklahoma Educational Interpreter for the Deaf Act.

This act shall be known and may be cited as the "Oklahoma Educational Interpreter for the Deaf Act". **(70-13-115)**

Section 280.3. Purpose.

It is essential for the well-being and educational growth of deaf and hard-of-hearing students that education programs recognize the unique nature of deafness and ensure that all deaf and hard-of-hearing students have appropriate, ongoing, and fully accessible educational opportunities. It is essential that deaf and hard-of-hearing students, like all students, are provided an education in which their unique communication mode is respected, utilized, and developed to an appropriate level of proficiency. **(70-13-115.1)**

Section 280.4. Definitions.

As used in the Oklahoma Educational Interpreter for the Deaf Act:

1. "Communication mode or language" means one or more of the following systems or methods of communication applicable to deaf and hard-of-hearing students:

a. American Sign Language,

b. English-based sign systems, or

c. oral, aural, or other speech-based communication;

2. "Educational Interpreter" means a person who possesses a combination of interpreting skills for expressing and receiving information in a variety of signed and oral languages and modes;

3. The Oklahoma "Quality Assurance Screening Test (QAST)" means a tool used for the comprehensive evaluation of interpreters;

4. "Interpreter Training Program" means a training program in an accredited college or university for preparing interpreters for the deaf;

5. "Work Experience" means a minimum of three (3) years of full-time-equivalent work in the field of deaf education; and

6. "Comparable Level of Proficiency" means a comparable level of proficiency on any other national- or state-recognized educational interpreter assessment as determined and recognized by the State Department of Education. **(70-13-115.2)**

Section 280.5. Qualifications for Interpreters.

A. Except as otherwise provided in this section, any person who functions as an educational interpreter in a public school shall have the interpersonal skills to work effectively and collaboratively with staff and students within the instructional setting as well as a comprehensive, general knowledge of academic subjects and current events, educational processes and organization, principles and practices of special education, aspects and issues of deaf culture, and have:

1. Completed an interpreter training program;

2. Attained a bachelor's degree; or

3. Worked three (3) or more years in an area related to the field of deaf education.

B. In addition to the requirements of subsection A of this section, a person who functions as an educational interpreter in a public school shall attain one or more of the following:

1. Certification by the Registry of Interpreters of the Deaf (RID);

2. National Association of the Deaf (NAD) Level IV or better;

3. Quality Assurance Screening Test (QAST) Level III or better; or

4. A comparable level of proficiency.

It shall be desirable for an educational interpreter to hold either a bachelor's or associate's degree.

C. A person who has never worked as an educational interpreter in any public school, who meets the requirements as provided in subsection A of this section, who does not meet the requirements of subsection B of this section, and who has attained the Quality Assurance Screening Test (QAST) Level I or II, may be employed as an educational interpreter for up to three (3) years. The person shall not be eligible to be employed as an educational interpreter in any public school of this state after the third year until the person attains one of the proficiency levels as provided in subsection B of this section.

D. Any educational interpreter employed by a public school on the effective date of this act who does not meet the requirements of subsection B of this section shall be required to attain QAST Level I or a comparable level of proficiency by July 1, 2004. An educational interpreter shall have until July 1, 2006, to meet the requirements of subsections A and B of this section or a comparable level of proficiency. **(70-13-115.3)**

Section 280.6. Implementation.

The State Department of Education shall adopt rules to implement the provisions of this act in collaboration with the State Department of Rehabilitation Services. The State Department of Education shall:

1. Maintain a registry of individuals who meet the qualifications as educational interpreters as set forth in this act; and

2. Establish a system of and requirements for continuing education. Such system shall require completion of the minimum QAST continuing education units per year, in which fifty percent (50%) of such units include training in educational interpreting. **(70-13-115.4)**

Section 281. Oklahoma Early Intervention Act.

Sections 1 through 9 of this act shall be known and may be cited as the "Oklahoma Early Intervention Act". **(70-13-121)**

Section 282. Purpose.

A. It is the purpose of the Oklahoma Early Intervention Act to establish the policy of this state to provide for early intervention services to infants and toddlers with disabilities and their families in accordance with Part C, formerly Part H, of the Individuals with Disabilities Education Act (IDEA), as may be amended. These services are deemed to be necessary in order to:

1. Enhance the development of infants and toddlers with disabilities;

2. Reduce the educational costs to our society by minimizing the need for special education and related services after such children reach school age;

3. Minimize the likelihood of institutionalization of individuals with disabilities and maximize their potential for independent living in society; and

4. Enhance the capacity of families to meet the needs of their infants and toddlers with disabilities.

B. The implementation of this policy requires the development of a system of services to infants and toddlers with disabilities and their families which is:

1. Comprehensive, coordinated, multidisciplinary and interagency;

2. Delivered by the State Department of Education, Oklahoma State Department of Health, the Department of Human Services, the Department of Mental Health and Substance Abuse Services and other publicly funded services for infants and toddlers with disabilities and their families subject to the provisions of the Oklahoma Early Intervention Act; and

3. Intended to fulfill the requirements of Part C of the Individuals with Disabilities Education Act (IDEA), by providing early intervention services. **(70-13-122)**

Section 283. Eligibility Requirements.

A. The children eligible for entry into early intervention services in the State of Oklahoma shall be infants and toddlers age birth through two years (0-36 months) who are developmentally delayed. As used in this act "developmentally delayed" means children of the chronological age group specified in this section who:

1. Exhibit a delay in their developmental age compared to their chronological age of fifty percent (50%) or score two standard deviations below the mean in one of the following areas or in a subdomain of one of the following areas: cognitive, physical, communication, social and emotional, or adaptive development;

2. Exhibit a delay in their developmental age compared to their chronological age of twenty-five percent (25%) or score one and one-half standard deviations below the mean in two or more of the following areas or in a subdomain of two or more of the following areas: cognitive, physical, communication, social and emotional, or adaptive development; or

3. Have a diagnosed physical or mental condition that has a high probability of resulting in delay. This includes, but is not limited to: chromosomal disorders, neurological abnormalities, inborn errors of metabolism, genetic disorders, congenital malformation of the brain, congenital infections and sensory abnormalities and impairments or identified syndromes.

B. The State Board of Education is authorized to modify and redefine by regulation the eligibility definitions established in subsection A of this section whenever such modification is required to receive federal assistance under Part C of the Individuals with Disabilities Education Act (IDEA), as may be amended. **(70-13-123)**

Section 284. Parental Consent to Delivery of Services.

Parents or surrogate parents may consent to the delivery of services for the early intervention program for their eligible children.

For purposes of the Oklahoma Early Intervention Act the terms "parent" and "surrogate parent" shall have the meaning that said terms have in Title 34, Code of Federal Regulations, Part 300, Section 10 and 514 which implement the Individuals with Disabilities Education Act. (IDEA). **(70-13-123.1)**

Section 285. Administration, Supervision, and Monitoring of Programs and Activities.

A. The State Department of Education is hereby designated as the lead agency for general administration, supervision and monitoring of programs and activities receiving federal funds under Part H of the Individuals with Disabilities Education Act (IDEA) and state funds appropriated for early intervention services. To ensure compliance with Part H of the Individuals with Disabilities Education Act (IDEA) and its implementing regulations, the State Department of Education is authorized to monitor and enforce any obligations imposed on agencies participating under Part H of the IDEA.

B. In accordance with Part H of the Individuals with Disabilities Education Act (IDEA), the Oklahoma Commission on Children and Youth shall administer the Interagency Coordinating Council for Early Childhood Intervention which shall advise and assist the lead agency in fulfillment of its responsibilities.

C. The State Department of Education, the State Department of Health, the Department of Human Services, the Department of Mental Health and Substance Abuse Services and other publicly funded services shall continue to provide all services within their respective statutory and constitutional responsibilities to the eligible population except as otherwise provided in Section 13-101 of this title. State and local interagency agreements will delineate responsibility for local and regional procedural safeguards, provision of service and related issues. Funds provided for implementation of the Oklahoma Early Intervention Act, Sections 13-121 through 13-129 of this title, shall not be used to satisfy a financial commitment for services which would have been paid for or provided by another public or private source, but shall be utilized solely for the enactment of Part H of the Individuals with Disabilities Education Act (IDEA) and the Oklahoma Early Intervention Act. Such funds may be used whenever considered necessary to prevent delay in the receipt of appropriate early intervention services by the infant or toddler or family in a timely fashion. Funds provided for implementation of the Oklahoma Early Intervention Act may be used to pay the provider of services pending reimbursement from the agency which has the ultimate responsibility.

D. Pursuant to the requirements of Part H of the Individuals with Disabilities Education Act (IDEA), all financial resources from federal, state, local and private sources shall be coordinated to fund early intervention services. In order to determine the most effective utilization and achieve coordination, a joint funding plan shall be submitted to the Governor, the Speaker of the House of Representatives, and the Senate President Pro Tempore by the State Department of Education, the State Department of Health, the Department of Human Services and the Department of Mental Health and Substance Abuse services on or before October 1. The individual components of such plan as they relate to individual agencies shall be incorporated annually into each affected agency's budget request in accordance with the provisions of Section 41.29 of Title 62 of the Oklahoma Statutes. Such plan shall include, but not be limited to:

1. Utilization of State Aid funds appropriated to the State Board of Education for the purpose of providing early intervention services or provided pursuant to the State Aid Formula for special education services and related services to children with disabilities;

2. Publicly funded personnel and programs in the State Department of Education, the State Department of Health, the Department of Human Services and the Department of Mental Health and Substance Abuse Services who are currently serving the eligible population;

3. Feasibility of utilization of federal Title V funds;

4. Utilization of new state funds as may be appropriated by the Legislature for fiscal year 1990 for the purpose of early intervention, and of additional new funds needed to fully implement early intervention services in accordance with the State of Oklahoma's implementation of Part H of the Individuals with Disabilities Education Act (IDEA);

5. Amendments to expansion of the Medicaid State Plan to include early intervention services for eligible children utilizing state funds designated for early intervention for the purpose of matching federal funds;

6. Feasibility of application for federal funds appropriated pursuant to P.L. 89-313; and

7. Utilization of funds received under Part H of the Individuals with Disabilities Education Act (IDEA).

E. The State Department of Education, the State Department of Health, the Department of Human Services and the Department of Mental Health and Substance Abuse Services shall be authorized to transfer funds enumerated in subsection D of this section to the Oklahoma Early Intervention Revolving Fund created in Section 13-124.1 of this title to the extent that transfers of such funds are authorized by and directed to the fund by the joint funding plan of the Oklahoma Early Intervention Act or by state or federal law.

F. Monies appropriated to an affected agency and monies identified in the joint funding plan for the purpose of providing early intervention services shall be used by the agency exclusively for the purpose of providing early intervention services.

G. For purposes of implementing the provisions of the Oklahoma Early Intervention Act, the board of education of any school district in this state may execute an agreement with a city/county health department or county health department to share appropriate facilities. **(70-13-124)**

Section 286. Oklahoma Early Intervention Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the State Department of Education to be designated the "Oklahoma Early Intervention Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of those monies appropriated to the fund by law or deposited in the fund pursuant to direction or authorization by the joint funding plan required in Section 13-124 of this title. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the State Department of Education for the purpose of providing early intervention services to children with disabilities in accordance with Part H of the Individuals with Disabilities Act (IDEA) and the Oklahoma Early Intervention Act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment. **(70-13-124.1)**

Section 287. Contract for Services.

A contract shall be entered into between the State Department of Education and the Oklahoma State Department of Health specifying the provision or arrangement of early intervention services by the Oklahoma State Department of Health. Such contract shall include, but not be limited to:

1. A delineation of individual and shared responsibilities for planning, administration and funding, multi-disciplinary evaluations, development of an individual family service plan, service delivery, procedural safeguards and liability of both agencies;

2. Specification of the numbers and types of personnel to be provided under the contract;

3. Provisions to be made by the Oklahoma State Department of Health for provision of services not available at a local level and authorization to subcontract with other public or private service providers; and

4. Specification of all management and indirect costs associated with the Oklahoma State Department of Health's provision of early intervention services that are authorized for payment under the contract. Allowable management costs shall be limited to itemized early intervention specific travel, dedicated or shared personnel and maintenance and operations costs. Indirect costs shall not exceed those authorized by the indirect cost formula approved by the State Department of Education for the contract period. All other administrative, management or infrastructure cost recover methodologies shall be specifically disallowed for payment under the contract. **(70-13-125)**

Section 288. Procedural Safeguards.

Procedural safeguards shall be established in fulfillment of the requirements of Part H of the Individuals with Disabilities Education Act (IDEA) through interagency agreements involving the State Department of Education, the Oklahoma State Department of Health, the Department of Human Services, the Department of Mental Health and Substance Abuse Services and other publicly funded services as appropriate. **(70-13-126)**

Section 289. Requirements for Payment and Reimbursement.

The legal requirements for timely payment and reimbursement for services under contract pursuant to Sections 41.4a through 41.4d of Title 62 of the Oklahoma Statutes shall govern the services, programs and activities for the State of Oklahoma's implementation of Part H of the Individuals with Disabilities Act (IDEA). **(70-13-127)**

Section 290. Data Collection and Reporting Requirements.

The data collection requirements concerning children with disabilities which are currently utilized by the State Department of Education upon the effective date of this act shall also be utilized to meet the data collection and reporting requirements for the State of Oklahoma under Part H of the Individuals with Disabilities Education Act (IDEA). Further, the Oklahoma State Department of Health, the Department of Human Services and the Department of Mental Health and Substance Abuse Services shall fulfill the data collection and reporting requirements established by the United States Department of Education pursuant to Part H of the Individuals with Disabilities Education Act (IDEA) for early intervention services provided by their respective agencies pursuant to the purposes of the Oklahoma Early Intervention Act, Section 13-121 et seq. of this title. The lead agency shall provide technical assistance to the agencies in this endeavor. **(70-13-128)**

Section 291. Implementation.

A. The Interagency Coordinating Council for Early Childhood Intervention shall assist the State Department of Education in revising the Oklahoma State Plan for Special Education to include areas addressing requirements under Part H of the Individuals with Disabilities Education Act (IDEA) necessary for full implementation of this act. Such revision shall be completed by April 1, 1990.

B. Contingent upon the enactment of legislation authorizing implementation of an annual budget submitted which is based upon a joint funding plan provided in subsection D of Section 13-124 of this title, services in compliance with this act and Part H of the Individuals with Disabilities Education Act (IDEA) shall be in effect no later than July 1, 1990. Subject to such contingency all children eligible for services pursuant to the provisions of Section 3 of this act shall be served beginning July 1, 1991. **(70-13-129)**

Section 292. State Board of Career and Technology Education.

A. There is hereby created the State Board of Career and Technology Education which shall succeed to all of the powers and duties heretofore invested in the State Board for Vocational Education. The membership of the State Board of Career and Technology Education shall consist of:

1. The State Superintendent of Public Instruction who shall be an ex officio voting member;

2. Two appointed members of the State Board of Education, selected by the Governor, to serve as ex officio voting members. One State Board member shall be selected for a one-year term and one State Board member shall be selected for a two-year term;

3. Five members to be appointed by the Governor with the advice and consent of the Senate. Each appointed member shall be an owner, chief executive or operating officer, or business executive with policy-making or hiring authority for a business or industry located in the state or with a business or industry where a significant number of the workforce performs a task for which training or other educational service may be obtained from the career and technology education system. The Governor shall appoint one such appointive member from each of the congressional districts and any remaining members shall be appointed from the state at large.

However, when congressional districts are redrawn each member appointed prior to July 1 of the year in which such modification becomes effective shall complete the current term of office and appointments made after July 1 of the year in which such modification becomes effective shall be based on the redrawn districts. Appointments made after July 1 of the year in which such modification becomes effective shall be from any redrawn districts which are not represented by a board member until such time as each of the modified congressional districts are represented by a board member. No member shall be appointed pursuant to this paragraph who has not resided in the relevant congressional district for at least six (6) months prior to the date of appointment; and

4. One member who represents the public, private and/or educational interests of the state shall be appointed by the Governor from the state at large with the advice and consent of the Senate.

B. All initial appointments made by the Governor pursuant to this act shall be for terms as follows:

1. Initial appointments of the two members of the State Board of Education pursuant to paragraph 2 of subsection A of this section shall be for terms as follows:

a. one for a term to expire on April 1, 2004, and

b. one for a term to expire on April 1, 2005;

2. Initial appointments of the six members pursuant to paragraphs 3 and 4 of subsection A of this section shall be for terms as follows:

a. one for a term to expire on April 1, 2004,

b. one for a term to expire on April 1, 2005,

c. one for a term to expire on April 1, 2006,

d. one for a term to expire on April 1, 2007,

e. one for a term to expire on April 1, 2008, and

f. one for a term to expire on April 1, 2009;

3. The member appointed to represent the state at large shall be the initial appointment for the term ending April 1, 2009;

4. After the initial terms, all members appointed by the Governor shall be appointed for terms of six (6) years. Initial appointments pursuant to the provisions of this section shall be made no later than September 1, 2003.

All terms shall expire on the first day of April of the year in which the term of each member expires, except for the terms of office of members serving on the Board on the effective date of this section, which shall expire August 31, 2003;

5. The Chair of the Board shall be the State Superintendent of Public Instruction. The Director of the Oklahoma Department of Career and Technology Education shall serve as an ex officio nonvoting member and shall be the executive officer of the Board; and

6. Members of the State Board of Career and Technology Education shall be subject to the orientation and continuing education requirements for school board members specified in Sections 5-110 and 5-110.1 of this title.

Failure of a member to satisfy these requirements shall result in the member vacating the seat and the vacancy being filled as provided by law.

C. No person shall be eligible to be appointed to serve on the Board unless the person has been awarded a high school diploma or certificate of high school equivalency.

D. For each additional month employed, the additional salary shall be calculated on the basis of one-tenth (1/10) of the base salary as prescribed by the school district for a teacher of like qualifications employed on a ten-months' basis.

E. The official name of the Board which is known as the "State Board of Vocational and Technical Education" shall be designated in all future references as the "State Board of Career and Technology Education". Any references in the statutes to the State Board of Vocational and Technical Education shall be deemed references to the State Board of Career and Technology Education. **(70-14-101)**

School District cannot require vocational teacher to work in excess of 190 days. *AG Op. August 27, 1971*

Section 293. Meetings - Compensation of Members.

The State Board of Career and Technology Education shall meet in regular session once each month. Special meetings may be called by the Chairman or by a majority of the members of the Board. Meetings of the Board may be held by teleconferencing. Seven members of the Board shall constitute a quorum. No business may be transacted at any meeting unless a quorum is present in person or through teleconferencing, and every act of the Board shall be approved by a majority of the membership of the Board. Each member of the Board shall receive necessary traveling expenses while in the performance of duties as a member pursuant to the State Travel Reimbursement Act. **(70-14-102)**

Section 293.1. Continuing Education.

The Oklahoma Department of Career and Technology Education is authorized to provide new, incumbent, and continuing education workshop and training requirements which are required for technology center school district board of education members and State Board of Career and Technology Education members as specified in Sections 5-110 and 5-110.1 of Title 70 of the Oklahoma Statutes. The training may be conducted by the Department or by an outside entity that has been approved and has contracted with the Department to provide the training. The Department shall provide each technology center school district board of education member and State Board of Career and Technology Education member with a training status report twice a year. **(70-14-102.1)**

Section 294. Powers and Duties.

The State Board of Career and Technology Education shall have the following power and duties:

1. Have the supervision of the Oklahoma Department of Career and Technology Education of the State Board of Career and Technology Education, which department shall keep its principal offices at Stillwater, and appoint and fix the compensation and duties of the Director and other personnel of such Department;

2. Have the supervision of the technology center schools and colleges of Oklahoma, except Oklahoma State University of Technical Training at Okmulgee and the Oklahoma State University Technical Institutes at Oklahoma City and Stillwater, which, however, shall be eligible to participate in federal programs administered by the State Board of Career and Technology Education as hereinafter provided;

3. Cooperate with, and enter into agreements with, and administer programs of, and receive federal funds from, the United States Department of Education and other federal agencies in matters relating to vocational and technical education, youth apprenticeship programs, and manpower training, and be the sole state agency for such purposes. Provided that, programs and funds made available through the Job Training Partnership Act, or its successor programs, shall be excluded;

4. Provide for the formulation and adoption of curricula, courses of study, and other instructional aids necessary for the adequate instruction of students in the technology center schools and colleges of this state. It is the intent of the Legislature that instructional models for vocational students should include higher standards of academic work with increased emphasis on communication, computation and applied science;

5. Develop a plan to provide adequate vocational offerings accessible to all students having the ability to benefit;

6. Purchase or otherwise acquire equipment, materials, supplies and other property, real or personal, as maybe necessary for the operation of the technology center schools of this state, and provide for the maximum utilization of such property through a coordinated and cooperative use thereof, including transfer of title to real and personal property to technology center school district for a reasonable cash consideration if said property is to be utilized in a vocational-technical program administered by the technology center district board of education. Any conveyance of real property for a reasonable consideration shall contain a reversionary clause by which the real property shall revert to the State Board of Career and Technology Education if the property ceases to be used in a vocational-technical program administered by the technology center district board of education;

7. Enter into such agreements and contracts with the State Board of Education, boards of trustees of community junior colleges, boards of education of independent and elementary school districts, boards of education of school districts for technology center schools, private educational or training institutions, public or private industry, and boards of directors of community action programs, as may be necessary or feasible for the furtherance of vocational and technical training within this state;

8. Cooperate and enter into agreements with the Oklahoma State Regents for Higher Education;

9. Cooperate with the State Department of Education in developing hands-on career exploration activities for students in grades 6 through 10, integrating academic competencies into vocational instruction, and ensuring counseling of all students in order to minimize the number of students graduating from high school without having completed either a vocational-technical program or college preparation;

10. Develop and periodically update a plan to allow teacher training and the purchase and installation of technological equipment necessary to modernize vocational educational programs;

11. Accept and provide for the administration of any land, money, buildings, gifts, funds, donations or other things of value which may be offered or bequeathed to the schools or colleges under the supervision or control of said Board;

12. Enter into cooperative arrangements with one or more other states for the conduct and administration of programs, services and activities;

13. Cooperate whenever possible, to avoid any duplication of training programs with any established training program registered by the Bureau of Apprenticeship and Training, United States Department of Labor;

14. Accept and expend funds from any source in order to market, advertise or promote programs and services available through the Career and Technology Education system; and

15. Participate in activities pertaining to the recruitment of companies to locate or expand operations in the state, and participate in activities that will increase the competitiveness of companies with headquarters or branch operations located in the state. These activities may require agency staff to travel, train, or provide technical assistance outside the State of Oklahoma. **(70-14-103)**

State Board of Vocational and Technical Education cannot require school districts to contract with vocational teachers for 10, 11, or 12 month periods. *April 13, 1984 (AG Op. No. 83-247)*

State Board of Vocational and Technical Education cannot adopt mandatory retirement age for its employees. *January 26, 1982 (AG Op. No. 81-260)*

State Board of Vocational and Technical Education may contract with private nonsectarian post-secondary educational institutions for such institutions to offer vocational training programs. *January 28, 1981 (AG Op. No. 80-196)*

Section 295. Dropout Recovery Program Grants.

A. Contingent upon the provision of appropriated funds, the State Board of Career and Technology Education is authorized to award one or more competitive grants for dropout recovery programs to technology center school districts. The grant awards shall be made to technology center school districts serving school districts that do not have intensive

dropout prevention programs and that have the greatest need for dropout prevention and recovery as reflected in reports of the Office of Accountability. The Dropout Recovery Grants shall emphasize dropout recovery, shall be in addition to any existing alternative education programs, and shall meet the criteria applicable to Alternative Education Academy Grants as set forth in subsection A of Section 1210.563 of this title.

B. The State Board of Career and Technology Education shall provide or contract for technical assistance from appropriated funds. The State Board of Career and Technology Education shall provide or contract for in-depth program analysis and evaluation of grant-funded programs to the Oklahoma Department of Career and Technology Education and the Legislature no later than November 1 following the end of the school year in which one or more programs were implemented and funded through Dropout Recovery Grants.

C. Programs funded through Dropout Recovery Grants shall be subject to the funding cycle and limitations applicable to Alternative Education Academy Grants as set out in subsection C of Section 1210.563 of this title.

D. By September 15 of each school year, all revenue received and expended for students participating in Dropout Recover Grant programs created in subsection A of this section shall be reported to the Oklahoma Department of Career and Technology Education.

E. The State Board of Career and Technology Education shall promulgate rules as necessary to administer the Dropout Recovery Grants and the process by which the grant funding shall be allocated.

F. By September 1, 1995, the State Board of Career and Technology Education shall prepare and submit to the Legislature and the Governor a proposed statewide plan, including a statement of needed funding, for the provision of vocational and technical education to students in grades six through twelve who have been identified by school districts in their needs assessments as being at risk of not completing a high school education for a reason other than that identified in Section 13-101 of this title, and who would benefit from vocational and technical education. The plan shall include the availability of technology education courses to the identified students, an outreach effort to students in grades eleven and twelve in vocational and technical courses, provision for cooperative agreements to provide services for students participating in alternative education programs, and coordination with the State Board of Education. **(70-14-103.1)**

Section 295.1. Promulgation of Rules for Access to Services.

The State Board of Career and Technology Education shall promulgate rules to ensure access to vocational offerings in technology center school districts to students in technology center school districts who are receiving educational services from a school district due to placements outlined in the provisions of Section 1-113 of this title. **(70-14-103.2)**

Section 295.2. Pilot Programs for Rural Businesses.

Subject to the availability of fund appropriated specifically for this purpose, the State Board of Career and Technology Education shall implement a pilot program at technology center schools, the purpose of which is to provide services and training to help rural businesses expand. The purpose of the pilot program is to provide tuition grants and offer economic development, marketing and technology access services to qualifying rural businesses and communities as determined by the Oklahoma Department of Career and Technology Education. **(70-14-103.3)**

Section 295.3. Programs for Medical Micropigmentation.

The State Board of Career and Technology Education shall establish a program for training and certification in medical micropigmentation, to be offered in the technology center schools. The program shall be developed with curricular advice from the Oklahoma Board of Nursing, State Board of Medical Licensure and Supervision, State Board of Osteopathic Examiners, and the Board of Dentistry. **(70-14-103.4)**

Section 296. Oklahoma Department of Career and Technology Education.

A. There is hereby created the Oklahoma Department of Career and Technology Education, which shall consist of such divisions, units and positions as may be established by the State Board of Career and Technology Education.

The department shall be under the control of the State Board of Career and Technology Education, which shall formulate policies and adopt rules for the administration and operation of the department.

B. The official name of the state agency which is known as "State Department of Vocational and Technical Education" or the "Oklahoma Department of Vocational and Technical Education" shall be designated in all future references as the "Oklahoma Department of Career and Technology Education". Any references in the statutes to the State Department of Vocational and Technical Education or the Oklahoma Department of Vocational and Technical Education shall be deemed references to the Oklahoma Department of Career and Technology Education. **(70-14-104)**

Section 297. Courses of Instruction and Training - State Career-Technology Fund.

The Oklahoma Department of Career and Technology Education may operate and maintain, or otherwise provide for, courses of instruction and training in vocational and technical education courses and subjects, and charge students reasonable tuition fees for instruction or training. The fees shall be deposited in a special fund, which is hereby created, to be known as the State Career-Technology Fund. The fund may be used to pay expenses incurred by the Department in operating and maintaining the classes, and payment therefrom may be upon vouchers signed by a person or persons designated by the State Board of Career and Technology Education. The fund may also be used for the operation of the Multi-State Academic Vocational Curriculum Consortium (MAVCC) for the purpose of developing and disseminating curriculum materials for the member states. **(70-14-105)**

> Unless prohibited by any rule or statute, an area vocational-technical school district may enter into an agreement to accept tuition payment by credit card in which all fees for payment (including the discount charged by the card issuer) are charged to the cardholder. *April 30, 1990 (AG Op. No. 90-8)*

Section 298. Equipment Pool.

A. The Oklahoma Department of Career and Technology Education may operate and maintain an equipment pool, at which there shall be kept equipment for the use of technology center school districts and schools supported by public funds, and said department and schools shall be eligible for surplus property and equipment.

B. Whenever the Department determines that any such district or school has, and does not have a need for, equipment purchased wholly or partly with state or federal funds, it may, if consistent with federal laws and regulations, order the equipment transferred to the equipment pool; and the district or school, or officials thereof, shall thereupon have the duty to comply with such order. Provided, any equipment which has been purchased wholly or in part with local school funds shall require the concurrence of the governing board of that local school before the equipment shall be transferred to the state equipment pool.

C. Whenever the Department determines that a technology center school district or school supported by public funds has a need for any equipment in the equipment pool, the Department may transfer the equipment to such district or school.

D. The State Board of Career and Technology Education shall adopt and enforce such rules as it deems necessary to carry out the provisions of this section. **(70-14-106)**

Section 299. Technology Center School Districts.

A. The State Board of Career and Technology Education shall prescribe criteria and procedures for the establishment and governance of technology center school districts, as provided by Section 9B, Article X, Oklahoma Constitution, and such districts so established shall be operated in accordance with rules of the State Board of Career and Technology Education, except as otherwise provided in this title.

B. A technology center school district shall be a body corporate and shall possess the usual powers of a corporation for public purposes. Its official name shall be designated by the State Board of Career and Technology Education, in which name it may sue and be sued, and be capable of contracting and being contracted with, and holding real and personal estate.

C. The governing board of a technology center school district shall be a board of education consisting of not less than five (5) nor more than seven (7) members. Except as otherwise provided for in subsection D of this section, all

members of the board of education shall be elected in a manner prescribed by the State Board of Career and Technology Education. The State Board shall promulgate rules prescribing the manner in which the elections required by this subsection are held.

D. In a technology center school district that serves seventy or more public school districts, the territory of the school district shall be divided into district zones by the State Board of Career and Technology Education. Between August 1 and December 31 of the year following the submission by the United States Department of Commerce to the President of the United States of the official Federal Decennial Census, the Board shall reapportion the territory of the technology center school district into district zones. All boundaries of district zones shall follow clearly visible, definable, and observable physical boundaries which are based upon criteria established and recognized by the Bureau of the Census of the United States Department of Commerce for purposes of defining census blocks for its decennial census and shall follow, as much as possible, precinct boundaries. District zones shall be compact, contiguous and shall be as equal in population as practical with not more than a five-percent variance between the most populous and least populous district zones. The board of education of a technology center school district shall consist of one member elected from each of the district zones of the school district created pursuant to this subsection. The electors of each district zone shall elect a person, who is a resident of the district zone, to represent the district zone on the school board. If during the term of office to which a person was elected, that member ceases to be a resident of the district zone for which the person was elected, the office shall become vacant and the vacancy shall be filled as provided in Section 13A-110 of Title 26 of the Oklahoma Statutes. The State Board of Career and Technology Education shall promulgate rules prescribing the manner in which the elections required by this subsection are held.

E. The board of education of a technology center school district shall have the same powers and duties that boards of education of independent school districts have. It may require nonresident students to pay reasonable tuition fees, which may be paid for a student by the independent or elementary school district in which the student resides.

F. An election to vote on the question of making a levy of not to exceed five (5) mills on the dollar valuation of the taxable property in a technology center school district under the provisions of subsection A, Section 9B, Article X, Oklahoma Constitution, shall be called by the board of education and conducted by the county election board of such district in the same manner that elections for emergency levies in school districts under the provisions of Section 9(d), Article X, Oklahoma Constitution, are called and conducted. When such levy is approved by a majority of the electors of the technology center school district voting on the question at such election, the levy shall be made each fiscal year thereafter until repealed by a majority of the electors of the district voting on the question at an election called for such purpose. An election to vote on the question of making a local incentive levy of not to exceed five (5) mills on the dollar valuation of the taxable property in a technology center school district under the provisions of subsection B of Section 9B of Article X of the Oklahoma Constitution, may be called by the board of education; and elections on a levy for a building fund for an area school district under the provisions of Section 10, Article X, Oklahoma Constitution, shall be called by the board of education of such district and conducted by the county election board in the same manner that elections for similar levies are called and conducted in independent school districts.

G. Annual estimates of needs of technology center school districts shall be made and approved in the same manner that those of independent school districts are made and approved. Provided, that the State Board of Career and Technology Education shall prescribe a list of appropriation accounts by which the funds of technology center school districts shall be budgeted, accounted for and expended. Any such estimate of needs may include an estimate of federal funds as probable income from sources other than ad valorem tax of the district and other than any excise or other tax assessed by legislative enactment and distributed in lieu of ad valorem taxes. If a technology center school district lies in more than one county, the district's estimate of needs shall be filed with and approved by the county excise board of the county designated by the school district board of education.

H. Territory may be annexed to or detached from a technology center school district, in accordance with rules prescribed by the State Board of Career and Technology Education. If the State Board of Career and Technology Education requires the submission of a petition in order for an election to be called for the purpose of annexation or deannexation of territory to a technology center school district, such petition shall not be required to bear a number of technology center school district electors' signatures which exceed fifty percent (50%) of the number of technology center school district electors who voted in the last school board election in the territory proposed to be annexed or deannexed. Provided, the period of time from which the petition is initiated to its time of filing with the State Board shall not exceed ninety (90) days.

I. Schools of technology center school districts shall be subject to classification, inspection and accreditation by the State Board of Education.

J. The technology center school board of education may designate a county treasurer to serve as treasurer of the school district or may appoint an independent treasurer.

K. Within four (4) years after the creation of a technology center school district, such school district may, at its discretion, permit a teacher to transfer any or all accrued benefits upon employment including credit for years of service in the previous school district by the technology center school district, if the teacher at the time of hiring is employed as a teacher by an independent or elementary school district which is all or partly within the boundaries of the technology center school district or is employed as a teacher in a skills center within the boundaries of the school district.

L. The board of education of a technology center school district may convey surplus personal property without consideration to :

1. A school district that is within the boundary of the technology center school district;

2. A public school offering secondary level education which was created and is operated by the State of Oklahoma and that is within the boundary of the technology center school district;

3. A technology center school district; or

4. The Oklahoma Department of Career and Technology Education for the support or delivery of department initiatives.

M. The board of education of a technology center school district may, without prior approval of the State Board of Career and Technology Education, approve all plans and specifications for technology center school buildings, additions, and major modifications to school buildings that are designed to provide for the offering of vocational-technical education programs and services when the cost of the building project is to be paid with local levies or state bond monies or both local levies and state bond monies. **(70-14-108)**

Note: See Section 672 herein for constitutional provisions on area school districts.

In the overlap areas between a college technology center school district and a technology center school district, either district may levy and collect revenue from an incentive levy in the overlap area, provided, only one district shall impose an incentive levy in such overlap territory during any given time period. (AG Op. No. 08-32)

An area vo-tech school district may enter into an agreement to accept tuition payment by credit card in which all fees for payment by credit card are charged to the cardholder. *April 30, 1990 (AG Op. No. 90-8)*

School district in which a nonresident student of an area vocational-technical district resides has discretionary authority to pay tuition fees to the vocational-technical district. *July 30, 1984 (AG Op. No. 84-113)*

Advertising merits of vocational-technical schools and institutions of higher education is lawful. *October 20, 1980 (AG Op. No. 80-236)*

If area school district coterminous with boundaries of independent school district is formed, qualified electors residing in portions of independent district which overlap with area school district formed by junior college may vote on levies and bonds even though their property may already be subject to maximum tax levy allowed by law. *June 28, 1979 (AG Op. No. 79-182)*

Petition for annexation remains valid until acted upon, and failure to act does not render petition invalid. *May 17, 1979 (AG Op. No. 79-116)*

Election to create area school district which is coterminous with independent school district may be called notwithstanding area school district operating junior college therein, and qualified electors residing in overlay portion may vote, but may not be subjected to taxation if first area school district levied maximum tax on property in the overlay portion. *May 16, 1979 (AG Op. No. 79-113)*

Attorney employed by Vo-Tech school District may be reimbursed for travel expenses to participate in continuing legal education programs. *April 30, 1979 (AG Op. No. 79-101)*

Annexation of district to independent school district that is subject to area school district tax levy makes real property within annexed district subject to such tax. *Abbott v. Board of Trustees of Oscar Rose Junior College*, 586 P.2d 1098 (Okla. 1978)

Area school district is political subdivision of State. *AG Op. December 30, 1971*

Interlocal Cooperative Act (74 O.S. 1981, §§ 1001-1008) embraces area school districts. *AG Op. December 30, 1971*

School Districts cannot be assessed for an area vocational-technical school if electors of District were denied opportunity of voting on questions of assessments. *AG Op. July 1, 1971*

County Treasurer serves as Treasurer of area school district, without additional bond, unless board of education appoints local Treasurer. *AG Op. September 25, 1968*

Dependent school district comprising part of an area school district is not removed therefrom upon annexation to another dependent district. *AG Op. April 18, 1968*

Section 300. Health Insurance Plan Required by Technology Center School Districts.

A. The board of education of each technology center school district in this state shall provide a health insurance plan for the employees of the technology center school district. Technology center school districts may obtain health and dental insurance coverage as provided for in the State and Education Employees Group Insurance Act or may obtain other health insurance coverage. Any technology center district that does not participate in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act shall obtain health insurance coverage for the employees which provides open enrollment and provide for the continuation of health insurance coverage, including supplemental Medicare insurance coverage, for those district employees who retire from said district after September 30, 1991 with a vested benefit in the Teachers' Retirement System of Oklahoma. A retired person who begins receiving benefits from the Teachers' Retirement System of Oklahoma after September 30, 1991, who retires from a technology center school district that provides other health insurance coverage and who elects to continue said health insurance coverage shall pay to the technology center school district the premium rate for the health insurance minus an amount equal to the premium rate of the Medicare supplement or the amount determined pursuant to subsection (4) of Section 1316.3 of Title 74 of the Oklahoma Statutes, whichever is less, which shall be paid by the Teachers' Retirement System of Oklahoma to the to the technology center school district. The technology center school district shall remit to the health insurance coverage provider the total premium due less any uncollected amounts payable from retired technology center school district employees or their qualified survivors.

B. A technology center school district that participates in health insurance coverage other than the health insurance plan offered by the State and Education Employees Group Insurance Act shall not be required to pay any portion of the premium for the employees or the dependents of the employees of said school district. Unless a school district negotiates an agreement with its employees regarding health insurance pursuant to Sections 509.1 through 509.9 of this title, and to the extent that the agreement provides for the members of the recognized bargaining unit, a technology center school district that participates in health insurance coverage other than the health insurance plan offered by the State and Education Employees Group Insurance Act is prohibited from acquiring additional or supplemental health or dental insurance for any board member, area school superintendent or any other employee which is not available to all employees of said district, and said technology center school district shall not pay a greater portion of the employee or dependent premium or any health or dental insurance plan or plans provided by said technology center school district on behalf of any board member, superintendent or employee than that portion paid on behalf of all participating employees of said district.

C. If a technology center school district obtains health insurance coverage from a source other than through the State and Education Employees Group Insurance Act, the employees of the technology center school district who would be eligible to participate in the health and dental plans may require the board of education of the technology center school district to call an election to allow said employees to vote as to whether the technology center school district shall participate in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act. Upon the filing with the board of education of a petition calling for such an election which is signed by no less than thirty percent (30%) of the eligible employees of the technology center school district, the board of education shall call an election for the purpose of determining whether the technology center school district shall participate in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act. The election shall be held within thirty (30) days of the filing of the petition. If a majority of those eligible employees voting at the election vote to participate in the health and dental insurance plans offered through the State and Education Employees Group

Insurance Act, the board of education of the technology center school district shall apply for such participation within thirty (30) days of the election.

D. If a technology center school district does not have any health insurance coverage of the type required by this section, that technology center school district shall immediately be enrolled in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act.

E. A carrier providing health insurance coverage for employees of a technology center school district health insurance group which replaces a previous carrier for such technology center school district employees shall provide coverage for each retired employee who is receiving a benefit or terminates employment with a vested benefit from the Teachers' Retirement System of Oklahoma and who is enrolled in the health insurance group by the previous carrier at the time the previous carrier providing health insurance coverage is replaced. Notwithstanding any provision in this section to the contrary, any person who retires pursuant to the provisions of the Teachers' Retirement System of Oklahoma prior to May 1, 1993, or terminates service with a vested benefit, pursuant to the provisions of the Teachers' Retirement System of Oklahoma prior to May 1, 1993, may continue to participate in the health and dental plans authorized by the provisions of the State and Education Employees Group Insurance Act.

F. In the event a technology center school district ceases to exist, the assets and duties of said technology center school district are transferred to one or more other technology center school districts, said other technology center school district or districts do not agree to employ all of the former employees of the technology center school district that is ceasing to exist, and said former employees who are not being reemployed have rights under federal or state law to continue group insurance coverage, the annexing technology center school district having the largest general fund revenue for the most recent preceding fiscal year for which data is available shall provide group insurance coverage to said former employees not being retained during the period as required by law. **(70-14-108.1)**

Section 301. Special Building Project Account.

A. If required to do so as a prerequisite to the receipt of federal funds for a building project, the board of education of a technology center school district may establish a special account to be used for payment of the cost of the building project. Federal and state funds received for the building project may be deposited in the special account. Monies from the following sources, if available for the payment of the cost of the building project, may also be deposited in the special account: bond issues, levies for a building fund under Section 10 of Article X, Oklahoma Constitution and appropriations for capital outlay in the general fund of the district.

B. The board of education shall estimate the total amount to be deposited in or transferred to the aforesaid building project account, and may issue warrants against the account for the payment of the cost of the building project. The total amount of such warrants shall not exceed the estimate of the board of education of the total amount to be deposited in or transferred to the account. If there shall be an insufficient amount in the building project account to pay a warrant, the warrant shall bear interest at a rate to be fixed by the board of education, not to exceed six percent (6%) per annum, from the date of issuance until paid.

C. For the purposes of this section, the cost of a building project shall include expenditures for sites, for the construction of buildings, and for equipment, furniture and fixtures.

D. The State Board of Career and Technology Education shall adopt such rules as it deems necessary to make the provisions of this section effective. **(70-14-109)**

Section 302. Area School Districts Having Coterminous Boundaries With Independent Districts.

A. If the territory comprising an independent school district has been established by the State Board of Career and Technology Education as a technology center school district, and the boundaries of each are coterminous, the board of education of the technology center school district shall be separate from the board of education of the independent school district and no member of either board shall be eligible to serve on the other.

B. Existing boards of education of technology center school districts which are comprised of members of the board of education of an independent school district with coterminous boundaries shall be dissolved by the State Board of

Career and Technology Education, and the offices of the members of such boards shall become vacant on the first Monday in June, 1982. The State Board of Career and Technology Education shall establish election districts for such a technology center school district which shall have boundaries coterminous with the election districts of the independent school district and which shall be numbered identically to the election districts of the independent school district.

C. A separate board of education shall be created for such a technology center school district and its members elected in the manner prescribed by the rules of the State Board of Career and Technology Education except as hereafter provided:

1. The Governor shall appoint members to those offices of the board of education of such a technology center school district which will become vacant on the first Monday in June 1982, to staggered terms as follows:

a. two members shall be appointed to a term of one (1) year. Each of these offices shall become vacant on the first Monday in June 1983,

b. two members shall be appointed to a term of two (2) years. Each of these offices shall become vacant on the first Monday in June 1984,

c. two members shall be appointed to a term of three (3) years. Each of these offices shall become vacant on the first Monday in June 1985, and

d. one member shall be appointed to a term of four (4) years. This office shall become vacant on the first Monday in June 1986;

2. Upon the expiration of the term of an office of the board of education of a technology center school district prior to the expiration of the term of an office of the board of education of the independent school district in a coterminous election district, the Governor shall appoint a board member to the office of the technology center school district for the number of years necessary to establish a coterminous term between the board members of the technology center school board and the independent school district in the coterminous election district;

3. Thereafter, as the office of each member appointed to the board of education of the technology center school district becomes vacant, it shall be filled by a member elected as prescribed by the rules of the State Board of Career and Technology Education except as herein provided;

4. Elections of members to the board of education of the technology center school district shall be held on the same day as elections are held for election of members to the independent school district;

5. One member shall be elected from each election district by the voters of that election district; and

6. The term of office of each member elected to the board of education of the technology center school district shall be four (4) years. **(70-14-110)**

Section 303. Nondegree Instructors in Vocational and Technical Programs - Increments.

Nondegree instructors in vocational and technical education who are employed in a full-time, approved, reimbursed program for vocational and technical education shall qualify for yearly increments the same as any other teacher in the public schools. **(70-14-111A)**

Section 304. Agency for State.

The State Board of Career and Technology Education is hereby specifically designated as the agency of this state to cooperate and deal with any officer, board, or authority of the United States Government which may require or recommend cooperation with any state board of vocational and technical education. The Board, unless otherwise provided specifically by law, shall have no authority to use or pledge funds of the state for cooperation without approval by the Governor of the State. **(70-14-112)**

Section 305. Displaced Homemakers Act.

This act may be cited as the "Displaced Homemakers Act." **(70-14-113)**

Section 305.1. Legislative Findings, Purpose and Intent.

The Legislature hereby finds and declares that there is an ever-increasing number of persons in this state who, having fulfilled a role as homemaker, find themselves "displaced" in their middle years through divorce, death of spouse or other loss of family income; as a consequence, displaced homemakers are very often without any source of income; they are ineligible for categorical welfare assistance; they are subject to the highest unemployment rate of any sector of the work force; they face continuing discrimination in employment because they are often older and have no recent paid work experience; they are ineligible for unemployment insurance because they have been engaged in unpaid labor in the home; they are ineligible for social security because they are too young, and for many, they will never qualify for social security because they have been divorced from the family wage earner; they have often lost their rights as beneficiaries under employers' pension and health plans through divorce or death of spouse, despite many years of contribution to the family well-being; and they are most often ineligible for Medicaid and are generally unacceptable to private health insurance plans because of their age.

The Legislature further finds and declares that homemakers are an unrecognized part of the work force who make an invaluable contribution to the welfare of the society as a whole.

It is the intention of the Legislature in enacting this chapter to provide the necessary counseling, training, jobs, services and support programs for displaced homemakers so that they may enjoy the independence and economic security vital to a productive life and to improve the welfare of this ever-growing group of citizens. **(70-14-114)**

Section 305.2. Definitions.

As used in this act:

1. Board means the State Board of Career and Technology Education;

2. Superintendent means the superintendent of the technology center school designated as the pilot multipurpose service center for displaced homemakers.

3. Center means the pilot multipurpose service center for displaced homemakers; and

4. Displaced homemaker means an individual who:

a. has worked without pay as a homemaker for his or her family, and who has reached the age of thirty-five (35) years or older,

b. is not gainfully employed,

c. has had, or would have, difficulty finding employment, and

d. (1) has depended on the income of a family member and has lost that income, or

(2) has depended on government assistance as the parent of dependent children, but who is no longer eligible for such assistance. **(70-14-115)**

Section 305.3. Pilot Multipurpose Service Center.

The Board shall establish a pilot multipurpose service center for displaced homemakers in a suitable technology center school with adequate facilities. The Board shall designate the technology center school which is to serve as the pilot multipurpose service center for displaced homemakers. The superintendent of the designated technology center school shall hire the personnel and administer the program for the pilot project. The superintendent is authorized to

contract with or make grants to private nonprofit agencies or organizations to carry out the various programs of the centers as enumerated in this act. **(70-14-116)**

Section 305.4. Location of Center--Criteria.

A. In selecting the site for the center, the Board shall consider the following criteria:

1. Accessibility to substantial displaced homemaker population;

2. Suitability of vocational and technical training programs;

3. Availability of child care programs and services;

4. Availability of support services or programs in the community or surrounding areas; and

5. Accessibility to a variety of educational or training programs.

B. To the greatest extent possible, the staff of the service center, including supervisory, technical and administrative positions, shall be filled by displaced homemakers. **(70-14-117)**

Section 305.5. Funds.

The Board, superintendent and director of the center shall explore all possible sources of funding and in-kind contributions from federal, local and private sources in establishing and enhancing the center and its programs. **(70-14-118)**

Section 305.6. Job-Counseling and Job-Training Programs.

The center shall establish the following programs:

1. Job-counseling program for displaced homemakers which shall be specifically designed for the person reentering the job market after a number of years as a homemaker. The counseling will take into consideration, and build upon, the skills and experiences of a homemaker. Peer counseling and job readiness as well as skill updating and development shall be emphasized; and

2. Job-training program for displaced homemakers in which the staff at the center shall work with local government agencies and private employers to develop training programs for available jobs in the public and private sectors. **(70-14-119)**

Section 305.7. Displaced Homemakers - Center Responsibilities.

Center staff shall be responsible for assisting the trainee in finding permanent employment. To this end, the superintendent and the center staff shall work with the Oklahoma Employment Security Commission and the service delivery areas under the Job Training Partnership Act of 1982 in the area of the center to secure employment for displaced homemakers and/or training stipends for displaced homemakers.

The center staff and the superintendent shall also work to determine the feasibility and appropriate procedures for allowing displaced homemakers to participate in the following:

1. Programs established under the Job Training Partnership Act of 1982 29 U.S.C., Section 1501, et seq.;

2. Work incentive programs established under the Federal Social Security Act;

3. Programs established or benefits provided under federal and state unemployment compensation laws by consideration of full-time homemakers as workers eligible for such benefits or programs;

4. The Federal-State Expanded Unemployment Compensation Act of 1970 26 U.S.C., Section 3304, Note;

5. Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 26 U.S.C., Section 3304, Note;

6. The Emergency Unemployment Compensation Act of 1974 26 U.S.C., Section 3304, Note; and

7. Related federal and state employment, education, health and unemployment assistance programs. **(70-14-120)**

Section 305.8. Service Programs.

The center shall include, but not be limited to, the following service programs for displaced homemakers:

1. Money management courses, including information and assistance in dealing with insurance programs, life, health, home and car, taxes, mortgages, loans and probate problems; and

2. Educational programs, including courses offering credit through higher educational institutions or leading toward a high school equivalency degree. Support services shall be established which are designed to supplement the usual academic course offerings and training programs with classes aimed toward older persons to improve their employment capabilities. **(70-14-121)**

Section 305.9. Regulations Concerning Eligibility for Service Programs.

The superintendent, in consultation with the director of the service center, shall establish regulations concerning the eligibility of persons for the job training and other programs of the multipurpose service center, the level of stipends, if any, for the job training programs, and such other matters as the superintendent deems necessary to carry out the purpose of this act. **(70-14-122)**

Section 305.10. Evaluation of Programs – Reports.

A. The superintendent shall require the center staff to evaluate the effectiveness of the job training, placement and service components of the center. Such evaluation shall include the number of persons trained, the number of persons placed in employment, follow-up data on such persons, the number of persons served by the various service programs and cost effectiveness of the various components of the center.

B. The superintendent shall compile the evaluation into a written report for the Legislature to determine the feasibility of extending the pilot program to other areas of the State of Oklahoma. The evaluation report shall be filed no later than July 1, 1979. **(70-14-123)**

Section 306. Vocational Training Programs in Correctional Institutions.

The State Board of Career and Technology Education is hereby directed to assume the administrative, supervisory and instructional operations of all vocational training programs in correctional institutions for which it receives funds. **(70-14-124)**

Section 307. Transfer of Vocational Training Program and School at Stringtown Correctional Center.

The administration, supervision, and operation of the Vocational Training Program and School located at the Stringtown Correctional Center is hereby transferred from the Department of Human Services to the State Board of Career and Technology Education. All property, records, and personnel of said center are hereby transferred to the State Board of Career and Technology Education. **(70-14-125)**

Section 308. Retirement Status of Employees of Vocational Training Program and School.

Employees of the Vocational Training Program and School located at the Stringtown Correctional Center who are members of the Oklahoma Public Employees Retirement System and are being transferred from the Department of Human Services to the State Board of Career and Technology Education shall cease accruing benefits in the Oklahoma Public Employees Retirement System and shall commence accruing benefits pursuant to the Teacher's Retirement System

on July 1, 1983. On January 1, 1984, the Oklahoma Public Employees Retirement System shall transfer to the Teachers' Retirement System the actual amount contributed to the Oklahoma Public Employees Retirement System by the state and by each employee of the Vocational Training Program and School located at the Stringtown Correctional Center transferring to the Teachers' Retirement System and the retirement records of those transferring employees. Service accrued by said employees pursuant to the provisions of the Oklahoma Public Employees Retirement System shall be treated as credited service in the Teachers' Retirement System. **(70-14-125.1)**

Section 309. Re-employment of Technology Center Administrators.

No administration of a technology center school district shall enter into a contract for consultant services with any person who has retired from employment as an administrator with any technology center school district for two (2) years after the retirement date of such administrator. Nothing in this section shall prohibit a board of education of a technology center school district from employing as a substitute teacher, a person who has retired as an administrator or teacher with a technology center school district within two (2) years after the retirement date of the person. **(70-14-126)**

Section 310. Youth Apprentice Program Guidelines.

A. The Oklahoma Legislature, recognizing the need for improved methods of helping secondary students make a smooth transition from high school to the workplace, hereby establishes guidelines for youth apprenticeship programs.

B. Youth apprenticeship programs shall be defined as learning programs for young people enrolled in vocational education the combine on-the-job learning with classroom instruction, that offer a bridge between secondary and post high school training and education, and that result in certification of mastery of work skills.

C. Youth apprenticeship programs shall be administered and supervised by the State Board of Career and Technology Education, which shall also establish standards for program operation.

D. Notwithstanding any other section of law, youth apprenticeship programs shall not mean any traditional apprenticeship program registered by the Bureau of Apprenticeship and Training, United States Department of Labor. **(70-14-127)**

Section 311. Oklahoma Youth Apprentice Committee.

A. There is hereby created the Oklahoma Youth Apprenticeship Committee. The committee shall be appointed by the State Board of Career and Technology Education within thirty (30) days of the effective date of this act and shall consist of thirteen (13) members as follows:

1. The Director of the Oklahoma Department of Career and Technology Education or designee who shall also serve as committee chair;

2. The State Superintendent of Public Instruction or designee;

3. The Chancellor of Higher Education or designee;

4. One superintendent of a technology center school district;

5. One superintendent of an independent school district;

6. One president of a state community or junior college;

7. Two members who represent the interests of labor, including one who represents the Bureau of Apprenticeship Training of the United States Department of Labor;

8. Four members who are currently employed in business or industry; and

9. One member who represents a city chamber of commerce.

B. Seven members of the committee shall constitute a quorum. A quorum must be present to transact any business of the committee. The committee is advisory in nature and shall meet as necessary to provide recommendations to the State Board of Career and Technology Education related to the administration of and standards for youth apprenticeship programs. The members of the committee shall be reimbursed for travel expenses incurred in performing official duties in accordance with the provisions of the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes. **(70-14-128)**

Section 312. Rules for Youth Apprenticeship Programs.

The State Board of Career and Technology Education shall promulgate rules to implement the provisions of this act. **(70-14-129)**

Section 313. School Buildings - Bonds.

Whenever it shall become necessary for the board of education of any school district to raise sufficient funds for the purchase of a school site or sites, or to erect or purchase and equip a suitable school building or buildings, either or both, or for the purpose of making repairs to an existing school building or buildings, or for the purchase of school furniture and fixtures, or for making improvements to any school site or sites, either or both, it shall be lawful for such board of education to borrow money for which it is hereby authorized and empowered to issue bonds bearing a rate of interest not exceeding seven percent (7%) per annum, payable semiannually, at such place as may be shown on the face of such bonds, which bonds shall be payable serially as otherwise provided by law in not more than twenty-five (25) years from date; and the board of education is hereby authorized and empowered to sell such bonds at not less than their par value; provided, before any bonds shall be issued, the board of education shall cause an election to be held in such district as herein provided; provided, further, bonds may be voted in one issue and at the same election for any or all of the purposes hereinbefore enumerated. **(70-15-101)**

See also: Sections 592-598 and 599-619.

Taxpayers concerned with legality of bond election may bring suit either before bond commissioner approves issuance of bonds or within thirty days of bond commissioner's approval. *Dean v. Wes Watkins Area Vocational-Technical School District*, 782 P.2d 116 (Okla. 1989)

If a bond proposition differs substantially from previous one in terms of potential tax incidence and in character of improvements proposed, it does not fall under the resubmission restriction provision that no school bond election shall be called on the same proposition within four months after such proposition has been defeated. *Baird v. ISD No. 3*, 622 P.2d 1072 (Okla. 1981)

Purpose of resubmission restriction which prohibits successive school bond elections on the same proposition within a four-month period is to protect the electorate from harassment and coercion through repeated attempts to pass a previously defeated proposal by resubmitting it in altered form. *Baird v. ISD No. 3*, 622 P.2d 1072 (Okla. 1981)

Bonded indebtedness represents long-term debt. General fund revenues may not be used to pay off bonded indebtedness or as a substitute for the statutory process to retire bonded indebtedness. *April 5, 2002 (AG Op. No. 02-14)*

School district does not have authority to execute note and mortgage covering school property. *AG Op. July 3, 1970*

When a board of education determines that the projects for which a bond issue was voted have been completed, the money remaining in the bond fund must be transferred to the sinking fund, which may be used to pay judgments against the school district if there is a compliance with statutory requirements. *AG Op. March 8, 1967*

School district may vote bonds to construct teacherage. *AG Op. February 28, 1963*

Proceeds of bonds issued to purchase school furniture and fixtures may be used to purchase window blinds, flooring material, rain gutters, plastic tile, etc. *AG Op. December, 1953*

Proceeds of bonds issued for making improvements to school sites may be used to pay for drilling a water well. *AG Op. July 9, 1952*

Proceeds of bonds issued for construction of a new building cannot be used for repairs to an old building, nor can such bonds be revoted to authorize repairs to the old buildings. *AG Op. July 7, 1949*

Section 314. Election - Notice - Cost - Election on Same Proposition within Four Months after Defeat Prohibited.

The board of education shall call an election, to be conducted by the county election board in all respects as other elections, for the purpose of taking the sense of the district upon the question of issuing such bonds, naming in the proclamation of such election the amount of bonds to be voted on and the purpose for which they are to be issued; and it shall cause to be published in a newspaper of general circulation in said district the time and place of such election, such notices to be given at least ten (10) days before such election. In all instances where proclamations for elections for boards of education are required by statute of the mayor of a city, and in all instances where elections for boards of education are provided for by statute wherein the mayor and city clerk are denominated, the president of the board of education shall be substituted for the mayor and the clerk of the board of education shall be substituted for the city clerk. Boards of education are hereby declared to be free and independent of cities in all matters relating to school elections legally called upon all school matters, and presidents of boards of education shall have full power to issue proclamations calling school elections; provided, that no election shall be called on the same proposition within four (4) months after such proposition has been defeated at an election by the school district electors. The provisions of this act as to the waiting period shall not apply where the school facilities have been destroyed by an act of God. The cost of such elections, together with the cost of such proclamations, publication, notices or other expenses required, shall be legal costs of boards of education. **(70-15-102)**

If a bond proposition differs substantially from previous one in terms of potential tax incidence and in character of improvements proposed, it does not fall under the resubmission restriction provision that no school bond election shall be called on the same proposition within four months after such proposition has been defeated. *Baird v. ISD No. 3*, 622 P.2d 1072 (Okla. 1981)

Purpose of resubmission restriction which prohibits successive school bond elections on the same proposition within a four-month period is to protect the electorate from harassment and coercion through repeated attempts to pass a previously defeated proposal by resubmitting it in altered form. *Baird v. ISD No. 3*, 622 P.2d 1072 (Okla. 1981)

Where cause of destruction of school facilities is undetermined and no further information is available, cause cannot be attributed to an "Act of God". *AG Op. April 23, 1971*

Section 315. Electors - Qualifications.

On the question of issuance of said bonds, no person shall be qualified to vote unless he be in all respects a school district elector of such district. In case three-fifths (3/5) of the voters thereof voting at such election shall vote affirmatively for the issuance of said bonds, then the said board of education shall issue the same and not otherwise. The amount of the bonds so voted upon and issued shall not cause the school district to become indebted in an amount, including existing indebtedness, in the aggregate exceeding five percent (5%) of the valuation of the taxable property therein, to be ascertained from the last assessment for state and county purposes previous to the incurring of such indebtedness; but if the school district has an absolute need therefor, such district may, with the assent of three-fifths (3/5) of the voters thereof, voting at such election, incur indebtedness to an amount, including existing indebtedness, in the aggregate exceeding five percent (5%) but not exceeding ten percent (10%) of the valuation of the taxable property therein, to be ascertained from the last assessment for state and county purposes previous to the incurring of such indebtedness, for the purpose of acquiring or improving school sites, constructing, repairing, remodeling or equipping buildings or acquiring school furniture, fixtures or equipment or more than one or all of such purposes; and such assent to such indebtedness shall be deemed to be a sufficient showing of such absolute need. Section 26, Article X, of the Oklahoma Constitution, as amended on April 5, 1955, shall hereafter be in full force and effect. Provided, that any bond election that shall have heretofore been called or held in accordance with the provisions of Section 26, Article X, of the Oklahoma Constitution, as amended on April 5, 1955, is hereby validated if the bonds so authorized at such election have not yet been sold and delivered. **(70-15-103)**

Indebtedness incurred when bonds voted, issued, approved and delivered, and not when election is held. *Morrison v. Board of Education of ISD No. 6*, 424 P.2d 963 (Okla. 1967)

Section 316. Form - Provision for Collection of Annual Tax.

The said bonds shall contain all necessary provisions as to form; and such school district shall, before or at the time of the issuance of the same, provide for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof. **(70-15-104)**

Bonded indebtedness represents long-term debt. General fund revenues may not be used to pay off bonded indebtedness or as a substitute for the statutory process to retire bonded indebtedness. *April 5, 2002 (AG Op. No. 02-14)*

Section 317. Signatures - Registration - Certificate.

The bonds, the issuance of which is provided in the preceding sections, shall be signed by the president, attested by the clerk and registered by the treasurer of the board of education, and shall have endorsed thereon a certificate signed by the county clerk and the district attorney of the county wherein such district is located, stating that said bonds or evidence of debt are issued pursuant to law and that said issue is within debt limit. **(70-15-105)**

First Assistant District Attorney may sign certificate required of County Attorney. *AG Op. December 20, 1973*

Section 318. Transportation Equipment- Bonds.

Any school district that is authorized by law to provide transportation for pupils to and from school may become indebted for the purpose of purchasing transportation equipment and may issue its bonds, as provided for by law, in any amount not exceeding, with existing indebtedness, ten percent (10%) of the valuation of the taxable property within the school district, as shown by the last preceding assessment for state and county purposes previous to the incurring of indebtedness. The bonds shall be made to mature within a period not to exceed five (5) years from their date. It is hereby declared that the use of the word "equipment" in Section 26, Article X of the Oklahoma Constitution was intended to include the "transportation equipment" referred to in this section. **(70-15-106)**

Bond revenues derived under this Section cannot be used to maintain or repair existing transportation equipment. *May 10, 1978 (AG Op. No. 78-101)*

Section 318.1. Equipment Purchased Through Bonds Defined.

Any school district may become indebted for the purpose of purchasing equipment and may issue its bonds, as provided for by law, in any amount not exceeding, with existing indebtedness, ten percent (10%) of the valuation of the taxable property within the school district, as shown by the last incurring of indebtedness. The bonds shall be made to mature within a period not to exceed five (5) years from their date. It is hereby declared that the use of the word "equipment" in Section 26, Article X of the Oklahoma Constitution was intended to include: library books, textbooks, school-owned uniforms, computer software, electronic media content, perpetual or continuous district software license agreements and web-based software subscriptions with a term of more than one (1) year but not more than five (5) years, the acquisition of telecommunications devices and components to be used to enhance classroom instruction and maintenance/service contracts which are included as a part of the equipment purchase price and any associated hardware and software necessary for implementation and training and any maintenance agreements. This provision shall not restrict a school district from issuing bonds with a maturity of greater than five (5) years for the purchase of equipment not listed in this section. If the maturity of the bond is greater than five (5) years, the maturity of the bond shall not exceed the effective life of any equipment purchased with the proceeds. **(70-15-106.1)**

Section 319. Expenses.

All expenses incident to the issuance of school district bonds, including the expense of holding the bond election, may be paid from the proceeds of such bonds. **(70-15-107)**

Section 320. Investment in Government Bonds.

The proceeds of any school bonds or any portion thereof, or the sinking fund for the payment of any school bonds, may be invested by the issuing board in any type or series of United States Government Bonds. **(70-15-108)**

Section 321. Bond Issues of Area School Districts.

Area school districts may, in accordance with the provisions of Section 9B, Article X of the Oklahoma Constitution, issue bonds in the same manner as bonds are issued by other school districts. **(70-15-109)**

Section 321.1. Definitions.

For the purposes of this act:

1. "School bonds" means bonds issued pursuant to the provisions of Sections 15-101 through 15-109 of Title 70 of the Oklahoma Statutes;

2. "Commissioners" means Commissioners of the Land Office of the State of Oklahoma; and

3. "Fund" means permanent school fund for the support of common schools of the State of Oklahoma. **(70-15-201)**

Section 321.2. Guarantee of Bonds Issued.

On approval by the Commissioners, bonds issued pursuant to Sections 15-101 through 15-109 of Title 70 of Oklahoma Statutes are guaranteed by the corpus of the permanent school fund for the support of common schools. **(70-15-202)**

> The principal of the permanent school fund can be used to guarantee bonds issued by school districts according to the conditions set forth in 70 O.S. §§ 201 et seq. Thus, bond guarantees issued by the Commissioners of the Land Office are binding legal obligations which pledge the permanent school fund to guarantee bond issues of school districts. *November 8, 1996 (AG Op. No. 96-77)*

Section 321.3. Restriction on Guarantee of Bonds.

The Commissioners shall not approve bonds for guarantee if the approval would result in the total amount of outstanding guaranteed bonds to exceed an amount equal to twice the cost value or twice the market value of the assets of the permanent school fund whichever is lower, exclusive of real estate as calculated by the annual audit of the Commissioners of the Land Office. **(70-15-203)**

Section 321.4. Application by School Districts for Bond Guarantee Program.

A school district seeking the guarantee of eligible bonds shall apply to the Commissioners on an application which must include:

1. The name of the school district and the principal amount of the bonds to be issued;

2. The maturity schedule, estimated interest rate and date of the bonds; and

3. Any other information as deemed necessary and appropriate by the Commissioners of the Land Office.

The application must be accompanied by a fee set by the Commissioners in an amount to cover costs of administering the guarantee program. The Commissioners and the State Bond Advisor shall enter into an interagency agreement in order to administer their responsibilities pursuant to the provisions of this act.

From the fees collected, the Commissioners shall enter into a cooperative agreement with the State Bond Advisor to defray any administrative costs of his office in carrying out the provisions of this act. **(70-15-204)**

Section 321.5. Duty of State Bond Advisor.

It shall be the duty of the State Bond Advisor to review the bond applications and to advise the Commissioners of the validity of the guarantee application. **(70-15-205)**

Section 321.6. Requirements for Districts Applying for Guarantee.

A. Any district applying to utilize the provisions of this act for its bonded indebtedness shall:

1. Be certified to be in good standing and be accredited without probation by the State Board of Education;

2. Verify to the Commissioners that the bond issue involved is within any limitation provided by law;

3. Comply with such criteria or other requirements deemed necessary by the Commissioners; and

4. Fully comply with all provisions of the rules promulgated by the Commissioners pursuant to this act.

B. No guarantee of bonds shall be effective unless approved by a majority of the Commissioners. **(70-15-206)**

Section 321.7. Inability to Pay on Guaranteed Bond – Notice.

Immediately following a determination that a school district will be or is unable to pay maturing or matured principal or interest on a guaranteed bond, but not later than the fifth business day before the maturity date, the district shall notify the State Bond Advisor and the Commissioners of the Land Office. **(70-15-207)**

Section 321.8. Transfer of Funds to Pay Maturing or Matured Bond – Cancellation of Bond – Reimbursement by School District.

A. Following receipt of notice, the Commissioners shall cause to be transferred from the permanent school fund the necessary funding to pay the maturing or matured principal or interest.

B. Immediately following receipt of the funds for payment of the principal or interest, the district treasurer shall pay the amount due and forward the canceled bond or coupon to the Commissioners of the Land Office.

C. Following full reimbursement to the fund with interest, the Commissioners shall forward the canceled bond to the school district for which the payment was made. **(70-15-208)**

Section 321.9. No Acceleration of Remaining Bonds Due to Default.

If a school district fails to pay principal or interest on a bond guaranteed by the fund when it matures, other amounts not yet mature are not accelerated and do not become due by virtue of the school district default. **(70-15-209)**

Section 321.10. Collection of Deficient Payments from School Districts.

A. If the Commissioners make payment from the fund on behalf of a school district, the Commissioners shall withhold from any trust fund apportionment payable to the school district until the amount paid, plus interest, is repaid in full or the Commissioners may proceed to collect the deficient payments plus interest and reasonable attorney fees as provided by Section 365.5 of Title 62 of the Oklahoma Statutes. Monies collected from said school district for deficient payments shall be forwarded to the Commissioners within thirty (30) days of collection. In the determination of State Aid pursuant to Section 18-200 of Title 70 of the Oklahoma Statutes the State Apportionment component of the Foundation Program Income shall be determined as if the school district had received all state apportionment funds withheld pursuant to this section.

B. The amount withheld shall be deposited to the credit of the permanent school fund.

C. Immediately following any payments from the fund on behalf of a school district pursuant to this section, the Commissioners shall notify the State Treasurer of the payment for purposes of taking any action as is required by Section 8 of this act. **(70-15-210)**

Section 321.11. Implementation.

The Commissioners of the Land Office shall adopt rules necessary to implement the provisions of this act. **(70-15-211)**

Section 322. State Textbook Committee - Members' Qualifications.

There is hereby created the State Textbook Committee, which shall be composed of two members from each congressional district, appointed by the Governor with the advice and consent of the Senate and one member, appointed by the Governor with the advice and consent of the Senate, who shall be a lay citizen not having a teaching certificate and having at least one child in the public schools of Oklahoma. A majority of the twelve members appointed from the congressional districts shall be classroom teachers. The regular terms of all members shall be for three (3) years. No member shall be eligible to succeed himself. At no time shall more than one member of the State Textbook Committee be an employee of the same school district. Each member appointed from a congressional district shall have had not less than five (5) years' teaching or supervisory experience in the public schools of Oklahoma at the time of appointment, and shall be actively employed in the public schools of Oklahoma during the term of service on said Committee. The State Superintendent of Public Instruction or a designated member of staff shall serve as Secretary of the Committee and vote only when there is a tie vote in the membership of the Committee. Each member shall receive necessary traveling expenses while in the performance of his duties pursuant to the State Travel Reimbursement Act.

The Committee may meet at the call of the State Superintendent of Public Instruction at the State Capitol and elect by secret written ballot a chairperson and vice-chairperson from its membership to serve for the year. The terms for which new members from the congressional districts are appointed shall be staggered by the governor in making appointments. The terms of four members shall expire each year. The four new members appointed each year shall be certified in one of the curriculum areas in which the textbooks will be adopted that ensuing fiscal year. **(70-16-101)**

State Textbook Committee lacks authority to require that a statement specified by the Committee be added to or placed in textbooks as a condition of their adoption for use by public schools. *February 2, 2000 (AG Op. No. 00-7)*

Section 323. Lay Citizen Educator.

The lay educator appointed shall be appointed for a term of three (3) years. **(70-16-101.1)**

Section 324. Meetings - Selection of Textbooks.

A. The State Textbook Committee shall meet at the call of the chairperson as often as necessary, with two (2) weeks' public notice, to discharge its responsibilities. If necessary, not later than the first day of December of each year the State Textbook Committee shall meet at the call of the chairperson at the State Capitol and select textbooks for subjects taught in the public schools of the state up to and including the twelfth grade, which selections shall be for not more than six (6) years for every textbook.

B. The Committee may suspend any currently pending selection process of textbooks and may extend by at least two (2) years the six-year adoption period of those textbooks currently on the state adopted list, for the purpose of delaying for two (2) years the six-year adoption cycle of subjects.

C. "Textbooks", as used in Sections 16-101 through 16-124 of this title, means instructional materials that are designed for use by pupils as a learning resource. Instructional materials may be printed or nonprinted and may include textbooks, technology-based and other educational materials. Technology-based materials do not include the equipment required to make use of those materials.

D. The Committee shall select textbooks or series of textbooks for each subject, which are in its judgment satisfactory. The State Textbook Committee may determine that unusual or extraordinary circumstances exist in a particular subject area during the period for which textbooks have been selected for that subject area. Unusual or extraordinary circumstances shall include but not be limited to significant new techniques of teaching in a particular subject area or significant new findings or discoveries in a particular subject area. Upon a determination by three-fourths (3/4) of the members of the State Textbook Committee that unusual or extraordinary circumstances exist in a particular subject area, the Committee may select one or more textbooks in that subject area for the remainder of the adoption period.

E. Five or more district boards of education may petition the State Board of Education to add a book or series of textbooks to the approved list selected by the State Textbook Committee.

The State Board of Education shall promulgate rules to implement the method and time frame for handling the petitions in the most expeditious manner. **(70-16-102)**

Note: Amended by HB 1374, Sec. 1 of the 2011 Reg. Sess.

Section 325. (Omitted)

Section 326. Public Hearing on Textbooks being Considered by Committee.

The State Textbook Committee shall conduct a public hearing in the first two (2) weeks of October each year for the purpose of gathering public testimony concerning the various textbooks being considered for adoption by the Committee. Any person wishing to be heard at the public hearing shall register with the secretary of the State Textbook Committee at least two (2) weeks prior to the date set for the public hearing. The registration shall be accompanied by a typed summary detailing the nature of the testimony which will be presented at the public hearing. All testimony shall pertain to a specific textbook or textbooks for which the State Textbook Committee has received bids. The time and number of people testifying for any one organization may be limited by the State Textbook Committee. The Committee, in its discretion, may conduct additional public hearings. The date of the public hearing shall be set by the committee when the advertisement for bids for books is issued. **(70-16-102.1)**

Section 327. Advertisement - Sealed Bids.

The State Textbook Committee shall advertise for books in all basic subjects in such manner and for such time as it may deem best. Each year, the Committee shall advertise for sealed bids from publishers of textbooks for furnishing textbooks for the public schools of this state. Each bid shall state specifically and clearly the price at which each book will be furnished F.O.B. The bidder's depository or delivered to any ordering school district in this state, and the price the books may be sold for through local retail book dealers, and shall be accompanied by a sample copy of each book offered in such bid, together with any teacher edition or teacher aids used with such book. A copy of each textbook for which a bid has been accepted by the Committee shall be displayed in at least one library or institution of higher education within each Congressional District in this state. The facility shall have free public access. The textbooks shall be displayed from the time they are accepted by the Committee until their final selection or rejection. A record of all the books delivered direct to any school district shall be immediately furnished by the shipper and the school district to the State Board of Education. Each bid shall be accompanied by a sworn statement specifically:

1. stating whether the publisher is the owner of any interest or share in any other textbook publishing houses, and, if so, giving the names and addresses thereof;

2. showing whether any member of the committee is in any manner interested, directly or indirectly, in such person, firm, or corporation submitting such bid; and

3. showing the name and address of every committee, public official, or individual in this state who has been furnished, within the preceding twelve (12) months, any copy of the textbook or textbooks or any edition thereof included in the bid, together with the numbers and titles thereof furnished to each recipient.

If the fact shall be disclosed that any member of the Committee, State Textbook Director, or any employee of that office is interested in the bidder, it shall work a disqualification of such member, and the member shall not be permitted to serve on the Committee, and the bidder shall be disqualified. If it shall be disclosed that such sworn statement does not accurately and completely give the information required, the State Textbook Committee shall disregard the bid. Oklahoma authors of school textbooks shall be permitted to receive the customary royalty, regardless of employment. **(70-16-103)**

Section 328. Bids - Delivery - Investigation - Consultants.

All bids shall be sealed and delivered to the secretary of the State Textbook Committee, to be delivered by the secretary to the Committee for the purpose of considering the bids. The committee shall meet prior to August 15 of each year at the time and place mentioned in the advertisement, to open and examine the sealed bids received, and make a full and complete investigation of all books and the bids accompanying the same. The Committee may use regular classroom teachers as consultants. The books shall be selected after careful consideration of all the books presented, and the books

selected for adoption shall be those which, in the opinion of the Committee, are best suited for the public schools in this state. The committee shall give consideration to any legislative resolution concerning textbook content and the testimony received at public hearings when making the selections. The Committee shall proceed without delay to select, for use of the public schools of this state, textbooks as specified in this article and shall notify publishers to whom contracts are awarded. If the State Textbook Committee determines that significant inaccuracies exist in the contents of a textbook which has been bid or that information contained in the textbook is not current, the Committee may adopt the book on a provisional basis. Final adoption of the textbook and use of textbook money shall be contingent upon the publisher providing a modified or revised textbook which is acceptable by the State Textbook Committee. **(70-16-104)**

Section 329. Publishers' Contracts - Prices - Reduction - Term of Contract.

A. All contracts with publishers shall be signed by the chairperson and secretary of the State Textbook Committee on behalf of the state. Each contract shall stipulate the price at which each textbook will be sold to the State of Oklahoma, and that all copies supplied to the State of Oklahoma will be equal to or better than the official copy filed with the secretary of the Committee. The State Textbook Committee may approve the substitution of a later edition in lieu of the textbook originally selected. The publisher shall stipulate in the contract that:

1. The price for which the textbook is to be furnished will be the lowest at which the same textbook will be sold or offered for sale for the purpose of securing a state or local selection or adoption elsewhere in the United States during the six (6) months prior to the date of the execution of the contract;

2. It will reduce the contract price of the textbook, if the price of the same textbook is reduced below such contract price elsewhere in the United States, and that it will file with the secretary of the Committee a sworn statement of such reduction made elsewhere;

3. If it prepares any supplementary or abridged or special editions of any of the textbooks, and shall sell such editions elsewhere at a lower price than that stipulated in the contract, it will file copies of any and all such editions, together with the prices thereof, with the secretary of the Committee;

4. It has not entered into any understanding, agreement or combination to control the prices or restrict competition in the sale of textbooks;

5. It will furnish the textbooks to the State of Oklahoma during the term of the contract in such amounts as may be required; and

6. It will furnish for a like period in lieu of the corresponding textbooks under contract any other books listed in any annual statement subsequently filed by it during the term of the contract to any school district at the lowest new prices contained in such statement, and that it will maintain said prices uniformly through the state.

B. Textbooks selected by the State Textbook Committee may be purchased by school districts at the prices for which contracts have been awarded, pending the effective dates of the contracts.

C. The chairperson and secretary of the State Textbook Committee, on the advice and consent of the attorney for the State Department of Education, may, with the consent of the holders of state textbook contracts, change any contract to conform with the provisions of Section 16-102 of this title.

D. As requested by a school district or the Oklahoma School for the Blind, all publishers who enter into contracts with the State Textbook Committee shall be required to furnish the Committee with electronic files in a file format from which Braille and other accessible versions of the instructional materials can be produced. The file format in which electronic instructional materials files are provided to the Committee shall be in a format prescribed by federal law or regulations promulgated by the United States Department of Education which requires national standards for electronic files to be used for production of accessible instructional materials. In the absence of a federal law or regulation establishing a national standard, a file format standard shall be prescribed by the State Department of Rehabilitation Services. **(70-16-106)**

Section 330. Revised Editions - Late Adoptions.

A. In the event that a publisher whose bid has been accepted shall publish at any time before the expiration of the adoption period a new or revised edition of the adopted textbook, the State Textbook Committee may require such publisher to substitute such new or revised edition for the adopted edition at a price to be mutually agreed upon by the publisher and the State Textbook Committee, but not in excess of the lowest price at which the same textbook will be sold or offered for sale for the purpose of securing a state or local selection or adoption elsewhere in the United States during the twelve (12) months preceding the date of submitting such new or revised edition. A contract shall be made for such new or revised edition as for any other selection. Each bidder shall expressly agree to this provision as a part of the bid and the contract awarded if successful.

B. In the event that a publisher shall publish a textbook for a subject during the period for which adoption for that subject have not expired, such publisher may submit a bid for such textbook at the time and in the manner other bids are submitted. The State Textbook Committee may adopt such book for the balance of the adoption period and thereafter local textbook committees may adopt such book. **(70-16-107)**

Section 331. Surety Bond - Attorney General - Recoveries.

The bidder to whom one or more contracts may be awarded shall make and execute a good and sufficient surety bond, payable to the State of Oklahoma, in a sum not less than Two Thousand Dollars ($2,000.00), nor more than Ten Thousand Dollars ($10,000.00), to be fixed by the Committee, conditioned that the contractor shall perform all of the conditions of the contract. Prior to acceptance, the contract shall be approved by an attorney for the State Department of Education and shall be in conformity with, and subject to, all of the provisions of this article. The bond shall not be exhausted by a single recovery thereon but may be sued upon until the full amount thereof is recovered; and the Committee may, after twenty (20) days' notice, require a new bond to be given, and, in the event the contractor shall fail to furnish such new bond, such contract may at the option of the Committee be forfeited. **(70-16-108)**

Section 332. Right to Reject Bids - Failure to Secure Textbooks.

The State Textbook Committee shall have and reserve the right to reject any and all bids, if said Committee be of the opinion that any or all bids should, for any reason, be rejected; and in case it fails, from among the proposals submitted, to select sufficient books upon any of the branches of study provided for herein, it may advertise for sealed bids under the same terms as before, and proceed in its investigation in all respects as it did in the first instance. **(70-16-109)**

Section 333. List of Textbooks.

As soon as any contract is entered into for the furnishing of textbooks for use in the public schools of the state, the secretary of the State Textbook Committee shall send a list of the textbooks selected by the State Textbook Committee to every superintendent of schools and local textbook committee in the state, which list shall show the respective prices of such textbooks and contain such other information as the secretary shall deem advisable. The secretary shall annually publish and distribute a list of all textbooks that have been selected and that are then in force. **(70-16-110)**

Section 334. Local Textbook Committee - Examination Copies Adoptions - Requisitions.

A. Except as otherwise provided for in subsection E of this section, the superintendent of schools of each school district in the state shall appoint a local textbook committee consisting of not fewer than three nor more than nine members. Each committee shall have one lay member, with the remainder of the members being teachers employed in the public schools of the district, a majority of whom shall be classroom teachers. The superintendent of schools or a designee who shall be a principal or a curriculum specialist shall serve as chairperson of the local textbook committee.

B. Upon the written request of any duly appointed local textbook coordinator, the publisher of a textbook selected by the State Textbook Committee shall furnish at least one examination copy of the textbook and the teacher edition of the textbook, if one is published, and a copy of software for purposes of complete demonstration and review, if available, to the school district so that the local textbook committee may examine any or all new adoptions in the subjects taught or to be taught in schools in the district.

C. Except as otherwise provided for in subsection E of this section, on or before a date to be fixed by the State Board of Education, each local textbook committee shall adopt textbooks from the multiple list selected by the State Textbook Committee in a manner as shall be prescribed by the State Board of Education. Each local textbook committee shall serve without compensation and shall cease to exist when local adoptions have been completed and shall be replaced by another local textbook committee appointed in the same manner as provided for in this section.

D. Except as otherwise provided for in subsection E of this section, on or before a date to be fixed by the State Board of Education, the superintendent of each school district shall submit to the State Board of Education a textbook plan outlining the estimated number of textbooks needed by the school district and the total amount of money to be expended by the district for textbooks including the allocated funds and any additional supplemental funds to be expended. The superintendent or textbook coordinator appointed by the superintendent, shall place orders from the proper depository or depositories for all of the textbooks needed as outlined in the textbook plan by the district for the ensuing year. The superintendent of a school district or textbook coordinator may order any textbooks placed on the official multiple textbook list. If the order exceeds the allocation for each school district as provided in Section 16-114a of this title any additional funds expended shall be reported on the statement of expenditures for the district.

E. For the fiscal years ending June 30, 2011, and June 30, 2012, a school district shall not be required to appoint a local textbook committee, adopt textbooks, submit a textbook plan, or expend money on the purchase of textbooks during the fiscal year if the school district makes the election as provided for in subsection B of Section 16-114a of this title. **(70-16-111)**

> The Legislature has mandated that the local committees adopt textbooks from State multiple list. There are no directives as to how the selection process is to be carried out. Therefore, in light of the Oklahoma Constitution and applicable statutes, there is no requirement that a local textbook committee review the full list of textbooks adopted by the State Textbook Committee, but whichever books they select must come from that list. *August 2, 1993 (AG Inf. Op. No. 93-652)*

Section 335. District Purchase of Supplementary Textbooks and Materials.

The funds allocated for textbooks in Section 16-114a of this title may be used by a school district for supplementary textbooks and other instructional materials other than those selected and listed by the State Textbook Committee. **(70-16-111.1)**

Note: Amended by SB 278, Sec. 4 of the 2011 Reg. Sess.

Section 336. Cost of Textbooks - Payment - Repair Service.

A. All monies allocated for the purchase of textbooks shall be sent directly to the school districts. The treasurer of each school district shall enter the allocated textbook amount for deposit in the appropriate account and the reporting of financial transactions involving textbooks shall be made according to the Oklahoma Cost Accounting System, as adopted by the State Board of Education pursuant to Section 5-135 of this title. The price to be paid for instructional materials on the state textbook list shall be no greater than that stipulated in the contract with the publisher. The State Board of Education shall approve purchase order forms to be used by school districts to order books from the depository. All books shall be delivered to the school district. Depositories are authorized to confer with individual school districts on plans to reduce the number of textbooks returned by school district depositories and to confer on restocking fees associated with such returns.

B. The State Board of Education shall provide sufficient office space, equipment, records and supplies necessary for a proper performance of the duties and functions vested in it and the State Textbook Committee, and the State Board of Education shall appoint and fix the compensation and duties of necessary personnel to assist the State Board of Education in performing its said duties and functions.

C. The State Board of Education shall not reserve any funds from appropriations made for the purchase of textbooks for rebinding or for freight or transportation costs. Each school district shall be responsible for any cost incurred by that district for rebinding services or freight or transportation costs. **(70-16-113)**

Section 337. Textbook Allocation to School Districts.

A. Based upon legislative appropriations, the State Board of Education shall determine the textbook allocation to be distributed to each school district in the state. Each year the textbook allocation for each school district shall be calculated and distributed in July and adjusted in December. The initial allocation shall be calculated based on the audited end-of-year average daily attendance of the preceding school year multiplied by Fifty-five Dollars ($55.00). The initial allocation shall be calculated and distributed to each school district in July. The December adjustment shall be calculated by multiplying the audited first nine (9) weeks' average daily attendance for that current school year by Fifty-five Dollars ($55.00) and subtracting from that amount the amount of the initial allocation. The adjustment shall be calculated in December and distributed to each eligible school district no later than January 15. A school district shall receive an adjustment only if the adjustment figure as calculated in this section is greater than zero. The State Department of Education shall retain from the total amount appropriated for textbooks not less than one percent (1%) of the total amount to be used for the purpose of making the adjustments. If the amount appropriated, including the retained amount, is not sufficient to fully fund the adjusted allocation, each school district eligible for an adjustment shall receive a proportionate reduction in funding. Any unused portion of the value of textbooks allowed to a school district shall be cumulative and may be carried over by the school district to subsequent fiscal years, in addition to the allocation it is entitled to receive during that fiscal year.

B. For the fiscal years ending June 30, 2011, and June 30, 2012, a school district may elect to expend any monies allocated pursuant to this section for textbooks, including any monies carried over as authorized pursuant to subsection A of this section, for any purpose related to the support and maintenance of the school district as determined by the board of education of the school district.

C. All textbooks distributed to a school district that have been destroyed by fire or other hazard shall be replaced by the State Board of Education. The total cost of all additional textbooks delivered to school districts to replace those destroyed by fire or other hazard shall not exceed, for the entire state in any fiscal year, the aggregate sum of One Hundred Thousand Dollars ($100,000.00), which sum shall be reserved for that purpose from any appropriation made to carry out the provision of this section for any fiscal year. **(70-16-114a)**

State Board of Education may replace textbooks lost in shipment by district to State bindery. *AG Op. October 21, 1958*

District from which surplus textbooks are transferred shall be given credit thereof. *AG Op. October 26, 1949*

Section 337.1. Textbook Funding.

The funds appropriated for the purchase of textbooks shall be apportioned by the State Board of Education to each school district pursuant to the provisions of Sections 16-101 through 16-124 of this title. Upon application from a local school district, the State Board of Education may allocate funds appropriated for the purchase of textbooks to be used for the purchase of special education textbooks or other instructional materials for those students enrolled in special education programs. Approval of funds shall be based on the following formula:

No funds shall be provided for students attending special education classes less than two (2) hours per day. Those attending two (2) hours or more per day but less than four (4) hours shall receive a one-half (½) allocation. Those attending special education classes for four (4) or more hours per day shall receive a full allocation. **(70-16-114.1)**

Section 338. Contractors - Depository - Supply of Textbooks.

All contractors shall establish and maintain a suitable and convenient depository or depositories in the State of Oklahoma where a stock of their books to supply all immediate demands shall be kept. Said depository or depositories may be operated jointly with other contractors. Each contractor shall maintain at the depository a sufficient supply of textbooks for individuals or boards of education desiring to purchase the same and shall be required to sell such books to any individual or board of education at the same price at which the textbook is sold to the State of Oklahoma plus cost of transportation to the individual or board of education purchasing textbook. Upon the failure of any contractor to carry a sufficient stock of books at the depository to take care of all immediate demands of the State of Oklahoma and others requesting the same, or to furnish the textbooks as required by the contract, the State Board of Education shall have power to recover on the bond given by such contractor for the full value of the books not furnished as required by the contract and terminate said contract. **(70-16-115)**

Section 339. List of Names of Agents and Representatives of Publishers.

Each person, firm or corporation offering textbooks for sale in the State of Oklahoma shall list with the secretary of the State Textbook Committee the names and addresses of its agents or representatives which shall be a matter of public record in the office of the secretary of the State Textbook Committee. **(70-16-117)**

Section 340. Rules and Regulations for Issuance of Textbooks.

The State Board of Education shall adopt rules for the issuance of textbooks to school children and for the preservation of such textbooks, and all rules it deems necessary to carry out its duties and functions, and all such rules shall apply alike to all school districts. It shall prescribe the form of all reports and applications, and superintendents of schools, and boards of education shall be required to make such reports fully and completely at the time and in the manner prescribed by the State Board of Education. The State Board of Education shall keep an exact account of the cost of books distributed to each school district, together with the proper proportion of transportation and accounting charges.

The State Textbook Committee shall also have the power to adopt such rules as it deems necessary to enable it to perform its functions and duties. **(70-16-118)**

Section 341. Sample Textbooks.

All advance or sample copies of textbooks or any edition thereof furnished to any member of the State Textbook Committee, or to any individual for the purpose of obtaining a selection of the textbook by the State Textbook Committee, shall not be sold by the recipient thereof, but shall be disposed of as may be prescribed by the rules of the State Board of Education. Any advance or sample textbook or any edition thereof furnished to a member of a local textbook committee, or to any school official or individual for the purpose of obtaining a local adoption of the textbook, may be returned to the publisher for credit if the cost of such book was charged against the value of textbooks allowed such school district. Publishers shall pay the cost of shipment on returned samples. All publishers having contracts to furnish textbooks to the State of Oklahoma shall be required to file with the State Board of Education, not later than the first day of January and the first day of July of each year following the dates of their respective contracts, a sworn statement showing the names and addresses of all persons to whom they have furnished, during the preceding six (6) months, any advance or sample copies of such textbooks, or any edition thereof, together with the numbers and titles of such textbooks furnished to each such recipient, and a failure to do so, or to give accurate and complete information concerning the same, shall authorize the State Board of Education to cancel the contract of such publisher. **(70-16-119)**

Section 342. Free Textbooks - Ownership.

A. All textbooks adopted, purchased and distributed to school districts shall be furnished free of cost to the school children of such districts and shall be owned by such districts and each district shall mark each textbook with an appropriate number or other identification as deemed necessary to maintain proper records thereof. Each district board of education shall ensure that all textbooks necessary for completion of assigned course work are routinely available for every child enrolled in the schools of the district for the child's personal use in a manner that will enable the child to complete assigned course work. The State Board of Education shall maintain a replacement program so that all textbooks for student use are in satisfactory condition. Nothing herein shall prevent the purchase, from local school district funds, or any adopted textbook or any additional and supplementary textbooks if the board of education of any school district deems it necessary to make such purchases in order to establish and maintain the highest standards of excellence of its schools.

B. 1. Each school child who has been issued a set of textbooks pursuant to this section, and the parents or legal guardian of such child shall be responsible to the school district for the return of or payment for such textbook issued to the child which is not returned to the school.

2. The State Board of Education is authorized to promulgate rules requiring the return of or payment for any textbook used by a school child which is not returned to the school. Such rules shall provide for certain exceptions to such policies. Local boards shall include considerations for the inability to pay for the textbook, and reasons for the nonreturn of the textbook. A local school board is authorized to withhold transcripts, or other records of the school relating to any school child who fails to return a textbook or make payment for the textbook if not returned. For the

purpose of this subsection, the term "transcript" shall include any record of a grade or grades given to a student by a teacher.

3. The provisions of this subsection shall not authorize the State Board of Education to prevent any school child from actually receiving a grade he is otherwise entitled to for completion of a course of study, from graduating upon completion of the requirements, or from obtaining any records or information supplied to the school or otherwise owned by the child. **(70-16-121)**

Section 343. Bribes - Punishment.

Any person who directly or indirectly promises or offers to give, or causes to be promised, offered or given, any money, books, bribe, present or reward or any valuable thing whatsoever to any member of the State Board of Education, the State Textbook Committee, or a local textbook committee, or any member of a board of education, teacher or other person with the intent to influence a decision on any question, matter, cause or proceeding in the selection or adoption of any textbooks, or series of textbooks, upon conviction, shall be guilty of a felony. Any teacher in the public schools of Oklahoma, any superintendent of a school district or any employee of a school district who shall in any way be interested in the profits, proceeds or sale of any school textbook used in the public schools under such person's charge, or with which such person is connected in any official capacity, upon conviction, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than Fifty Dollars ($50.00) and not more than Two Hundred Dollars ($200.00) and shall in addition thereto forfeit the office or position. **(70-16-122)**

Section 344. Soliciting or Receiving Bribes - Punishment.

Any member of the State Board of Education and any member of the State Textbook Committee who directly or indirectly solicits, receives or agrees to receive any money, goods, bribe, present, reward or any valuable thing whatsoever with the intent, and which will have the effect, to influence a decision on any question, matter, cause or proceeding in the selection or adoption of any textbook or series of textbooks provided for in this article, upon conviction, shall be guilty of a felony.

Any district superintendent of schools, any member of a board of education, and any member of a local textbook committee who directly or indirectly solicits, receives or agrees to receive any money, goods, bribe, present, reward or any valuable thing whatsoever with the intent and which will have the effect to influence a decision on any question, matter, cause or proceeding in the selection or adoption of any textbook or series of textbooks, upon conviction, shall be guilty of a misdemeanor, and shall be punished by a fine of not to exceed Five Hundred Dollars ($500.00), or by imprisonment in the county jail for a term of not to exceed six (6) months, or both such fine and imprisonment. **(70-16-123)**

Section 345. Violation of Article - Punishment.

Any person, firm or corporation that violates any of the provisions of this article, or any of the rules of the State Board of Education or the State Textbook Committee adopted pursuant to the provisions of this article, the penalty for violation thereof not otherwise being provided herein, upon conviction, shall be guilty of a misdemeanor and shall be punished by a fine of not less than One Hundred Dollars ($100.00) and not more than Five Hundred Dollars ($500.00), or by imprisonment in the county jail for not less than ninety (90) days and not more than one (1) year, or by both such fine and imprisonment. Any public official or public employee violating any of the provisions of this article or any of such rules shall be subject to the foregoing penalties and in addition thereto shall forfeit the position or office. Any officer or employee of the State Board of Education or of the State Textbook Committee who knowingly or willingly apportions or disburses any money appropriated to carry out the provisions hereof, contrary to the provisions hereof, shall be subject to the foregoing penalties and in addition thereto shall forfeit the office or position. **(70-16-124)**

Section 346. Definitions.

The following words and phrases as used in this act, unless a different meaning is clearly required by the context, shall have the following meanings:

(1) "Retirement system" shall mean the Teachers' Retirement System of Oklahoma, as defined in Section 17-102 of this title.

(2) "Public school" shall mean a school district, a state college or university, the State Board of Education, the State Board of Career and Technology Education and any other state educational entity conducted within the state supported wholly or partly by public funds and operating under the authority and supervision of a legally constituted board or agency having authority and responsibility for any function of public education. "Public school" shall also mean a tuition free, nonprofit alternative school of choice that provides education, therapeutic counseling and outreach programs which is aligned with a school district and which receives grant funds from governmental sources.

(3) "Classified personnel" shall mean any teacher, principal, superintendent, supervisor, administrator, librarian, certified or registered nurse, college professor, or college president whose salary is paid wholly or in part from public funds. An employee of any state department, board, board of regents or board of trustees, who is in a supervisory or an administrative position, the function of which is primarily devoted to public education, shall be considered classified personnel under the meaning of this act, at the discretion of the Board of Trustees of the Teachers' Retirement System. The term "teacher" shall also include instructors and counselors employed by the Department of Corrections and holding valid teaching certificates issued by the State Department of Education. Provided, that a person employed by the Department of Corrections as an instructor or counselor shall have been actively engaged in the teaching profession for a period of not less than three (3) years prior to employment to be eligible to participate in the Oklahoma Teachers' Retirement System. The Department of Corrections shall contribute the employer's share to the Oklahoma Teachers' Retirement System.

(4) "Nonclassified optional personnel" shall include cooks, janitors, maintenance personnel not in a supervisory capacity, bus drivers, noncertified or nonregistered nurses, noncertified librarians, and clerical employees of the public schools, state colleges, universities or any state department, board, board of regents or board of trustees, the functions of which are primarily devoted to public education and whose salaries are paid wholly or in part from public funds.

(5) "Employer" shall mean the state and any of its designated agents or agencies with responsibility and authority for public education, such as boards of education of elementary and independent school districts, boards of regents, boards of control or any other agency of and within the state by which a person may be employed for service in public education. "Employer" shall also mean the board of directors of a tuition free, nonprofit alternative school of choice that provides education, therapeutic counseling and outreach programs which is aligned with a school district and which receives grant funds from governmental sources.

(6) "Member" shall mean any teacher or other employee included in the membership of the system as provided in Section 17-103 of this title.

(7) "Board of Trustees" shall mean the board provided for in Section 17-106 of this title to administer the retirement system.

(8) "Service" shall mean service as a classified or nonclassified optional employee in the public school system, or any other service devoted primarily to public education in the state.

(9) "Prior service" shall mean service rendered prior to July 1, 1943.

(10) "Membership service" shall mean service as a member of the classified or nonclassified personnel as defined in paragraphs (3) and (4) of this section.

(11) "Creditable service" shall mean membership service plus any prior service authorized under this title.

(12) "Annuitant" shall mean any person in receipt of a retirement allowance as provided in this title.

(13) "Accumulated contributions" shall mean the sum of all amounts deducted from the compensation of a member and credited to his individual account in the Teacher Savings Fund, together with interest as of June 30, 1968.

(14) "Earnable compensation" shall mean the full rate of the compensation that would be payable to a member if he worked the full normal working time.

(15) "Average salary":

(a) for those members who joined the System prior to July 1, 1992, shall mean the average of the salaries for the three (3) years on which the highest contributions to the Teachers' Retirement System was paid not to exceed the maximum contribution level specified in Section 17-116.2 of this title or the maximum compensation level specified in subsection (28) of this section. Provided, no member shall retire with an average salary in excess of Twenty-five Thousand Dollars ($25,000.00) unless the member has made the required election and paid the required contributions on such salary in excess of Twenty-five Thousand Dollars ($25,000.00), or unless an eligible member fulfills the requirements of Section 17-116.2C of this title in order to have pre-cap removal service included in the retirement benefit computation of the member using the regular annual compensation of the member for any pre-cap removal year of service so included subject to the maximum average salary amount, and

(b) for those members who join the System after June 30, 1992, shall mean the average of the salaries for five (5) consecutive years on which the highest contribution to the Teachers' Retirement System was paid. Only salary on which required contributions have been made may be used in computing average salary.

(16) "Annuity" shall mean payments for life derived from the "accumulated contributions" of a member. All annuities shall be payable in equal monthly installments.

(17) "Pension" shall mean payments for life derived from money provided by the employer. All pensions shall be payable in equal monthly installments.

(18) "Monthly retirement allowance" is one-twelfth (1/12) of the annual retirement allowance which shall be payable monthly.

(19) "Retirement Benefit Fund" shall mean the fund from which all retirement benefits shall be paid based on such mortality tables as shall be adopted by the Board of Trustees.

(20) "Actuary" shall mean a person especially skilled through training and experience in financial calculation respecting the expectancy and duration of life.

(21) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality and other tables as shall be adopted by the Board of Trustees.

(22) The masculine pronoun, whenever used, shall include the feminine.

(23) "Actuarially determined cost" shall mean the single sum which is actuarially equivalent in value to a specified pension amount as determined on the basis of mortality and interest assumptions adopted by the Board of Trustees.

(24) "Normal retirement age" means the earliest date upon which:

(a) a member reaches the age sixty-two (62) with respect to a member whose first creditable service occurs prior to November 1, 2011, unless the member reaches a normal retirement date pursuant to subparagraph c or subparagraph d of this paragraph, or

(b) a member reaches the age of sixty-five (65) with respect to a member whose first creditable service occurs on or after November 1, 2011, or with respect to a member whose first creditable service occurs on or after November 1, 2011, reaches a normal retirement date pursuant to subparagraph (d) of this paragraph having attained a minimum age of sixty (60) years, or

(c) the age at which the sum of a member's age and number of years of creditable service total eighty (80), with respect to a member whose first creditable service occurred prior to July 1, 1992, and who does not reach a normal retirement age pursuant to subparagraph a of this paragraph, or

(d) the age at which the sum of a member's age and number of years of creditable service total ninety (90), with respect to a member whose first creditable service occurred on or after July 1, 1992, but prior to November 1, 2011, if the member does not reach a normal retirement age pursuant to subparagraph a of this paragraph.

(25) "Regular annual compensation" means salary plus fringe benefits, excluding the flexible benefit allowance pursuant to Section 26-105 of this title and for purposes pursuant to Section 17-101 et seq. of this title. For purposes of this definition, regular annual compensation shall include all payments as provided in subsection D of Section 17-116.2 of this title.

(26) "Teacher" means classified personnel and nonclassified optional personnel.

(27) "Active classroom teacher" means a person employed by a school district to teach students specifically identified classes for specifically identified subjects during the course of a semester, and who holds a valid certificate or license issued by and in accordance with the rules and regulations of the State Board of Education.

(28) "Maximum compensation level" shall, except as otherwise authorized pursuant to the provisions of Section 17-116.2C of this title, mean:

(a) Twenty-five Thousand Dollars ($25,000.00) for creditable service authorized and performed prior to July 1, 1995, for members not electing a higher maximum compensation level,

(b) Forty Thousand Dollars ($40,000.00) for creditable service authorized and performed prior to July 1, 1995, for members electing a maximum compensation level in excess of Twenty-five Thousand Dollars ($25,000.00),

(c) Twenty-seven Thousand Five Hundred Dollars ($27,500.00) for members who, as of June 30, 1995, had elected to have a maximum compensation level not in excess of Twenty-five Thousand Dollars ($25,000.00), and who were employed by an entity or institution within The Oklahoma State System of Higher Education for creditable service authorized and performed on or after July 1, 1995, but not later than June 30, 1996, if such member does not elect a higher maximum compensation level for this period as authorized by Section 17-116.2A of this title,

(d) Thirty-two Thousand Five Hundred Dollars ($32,500.00) for members employed by a comprehensive university if the member meets the requirements imposed by Section 17-116.2A of this title and the member elects to impose a higher maximum compensation level for service performed on or after July 1, 1995, but not later than June 30, 1996,

(e) Forty-four Thousand Dollars ($44,000.00) for members who, as of June 30, 1995, had elected to have a maximum compensation level in excess of Twenty-five Thousand Dollars ($25,000.00), and who were employed by an entity or institution within The Oklahoma State System of Higher Education for creditable service authorized and performed on or after July 1, 1995, but not later than June 30, 1996, if such member does not elect a higher maximum compensation level for this period as authorized by Section 17-116.2A of this title,

(f) Forty-nine Thousand Dollars ($49,000.00) for members employed by a comprehensive university if the member meets the requirements imposed by Section 17-116.2A of this title and the member elects to impose a higher maximum compensation level for service performed on or after July 1, 1995, but not later than June 30, 1996,

(g) the following amounts for creditable service authorized and performed by members employed by a comprehensive university, based upon the election of the member in effect as of June 30, 1995:

1. for members who elected a maximum compensation level not in excess of Twenty-five Thousand Dollars ($25,000.00):

(i) Thirty-two Thousand Five Hundred Dollars ($32,500.00) for service authorized and performed on or after July 1, 1996, but not later than June 30, 1997,

(ii) Thirty-seven Thousand Five Hundred Dollars ($37,500.00) for service authorized and performed on or after July 1, 1997, but not later than June 30, 1998,

(iii) Forty-two Thousand Five Hundred Dollars ($42,500.00) for service authorized and performed on or after July 1, 1998, but not later than June 30, 2000,

(iv) Forty-seven Thousand Five Hundred Dollars ($47,500.00) for service authorized and performed on or after July 1, 2000, but not later than June 30, 2001,

(v) Fifty-two Thousand Five Hundred Dollars ($52,500.00) for service authorized and performed on or after July 1, 2001, but not later than June 30, 2002,

(vi) Fifty-seven Thousand Five Hundred Dollars ($57,500.00) for service authorized and performed on or after July 1, 2002, but not later than June 30, 2003,

(vii) Sixty-two Thousand Five Hundred Dollars ($62,500.00) for service authorized and performed on or after July 1, 2003, but not later than June 30, 2004,

(viii) Sixty-seven Thousand Five Hundred Dollars ($67,500.00) for service authorized and performed on or after July 1, 2004, but not later than June 30, 2005,

(ix) Seventy-two Thousand Five Hundred Dollars ($72,500.00) for service authorized and performed on or after July 1, 2005, but not later than June 30, 2006,

(x) Seventy-seven Thousand Five Hundred Dollars ($77,500.00) for service authorized and performed on or after July 1, 2006, but not later than June 30, 2007,

(xi) the full amount of regular annual compensation for service authorized and performed on or after July 1, 2007, and

2. for members who elected a maximum compensation level in excess of Twenty-five Thousand Dollars ($25,000.00):

(i) Forty-nine Thousand Dollars ($49,000.00) for service authorized and performed on or after July 1, 1996, but not later than June 30, 1997,

(ii) Fifty-four Thousand Dollars ($54,000.00) for service authorized and performed on or after July 1, 1997, but not later than June 30, 1998,

(iii) Fifty-nine Thousand Dollars ($59,000.00) for service authorized and performed on or after July 1, 1998, but not later than June 30, 2000,

(iv) Sixty-four Thousand Dollars ($64,000.00) for service authorized and performed on or after July 1, 2000, but not later than June 30, 2001,

(v) Sixty-nine Thousand Dollars ($69,000.00) for service authorized and performed on or after July 1, 2001, but not later than June 30, 2002,

(vi) Seventy-four Thousand Dollars ($74,000.00) for service authorized and performed on or after July 1, 2002, but not later than June 30, 2003,

(vii) Seventy-nine Thousand Dollars ($79,000.00) for service authorized and performed on or after July 1, 2003, but not later than June 30, 2004,

(viii) Eighty-four Thousand Dollars ($84,000.00) for service authorized and performed on or after July 1, 2004, but not later than June 30, 2005,

(ix) Eighty-nine Thousand Dollars ($89,000.00) for service authorized and performed on or after July 1, 2005, but not later than June 30, 2006,

(x) Ninety-four Thousand Dollars ($94,000.00) for service authorized and performed on or after July 1, 2006, but not later than June 30, 2007,

(xi) the full amount of regular annual compensation for service authorized and performed on or after July 1, 2007,

(h) the full amount of regular annual compensation of:

1. a member of the retirement system not employed by an entity or institution within The Oklahoma State System of Higher Education for all creditable service authorized and performed on or after July 1, 1995,

2. a member of the retirement system first employed on or after July 1, 1995, by an entity or institution within The Oklahoma State System of Higher Education for all creditable service authorized and performed on or after July 1, 1995, but not later than June 30, 1996,

3. a member of the retirement system employed by an entity or institution within The Oklahoma State System of Higher Education, other than a comprehensive university, if the member elects to impose a higher maximum compensation level for service performed on or after July 1, 1995, but not later than June 30, 1996, pursuant to subsection B of Section 17-116.2A of this title,

4. a member of the retirement system who is first employed on or after July 1, 1996, by any entity or institution within The Oklahoma State System of Higher Education, including a comprehensive university, for creditable service authorized and performed on or after July 1, 1996,

5. a member of the retirement system who, as of July 1, 1996, is subject to a maximum compensation level pursuant to paragraph (g) of this subsection if the member terminates service with a comprehensive university and is subsequently reemployed by a comprehensive university,

6. a member of the retirement system employed by a comprehensive university for all service performed on and after July 1, 2007, or

7. an eligible member of the retirement system who fulfills the requirements of Section 2 of this act with respect to pre-cap removal service included in the retirement benefit computation of the member at the average salary of the member subject to the maximum average salary amount.

(29) "Comprehensive university" shall mean:

(a) the University of Oklahoma and all of its constituent agencies, including the University of Oklahoma Health Sciences Center, the University of Oklahoma Law Center and the Geological Survey, and

(b) Oklahoma State University and all of its constituent agencies, including the Oklahoma State University Agricultural Experiment Station, the Oklahoma State University Agricultural Extension Division, the Oklahoma State University College of Veterinary Medicine, the Oklahoma State University Center for Health Sciences, the Technical Branch at Oklahoma City, the Oklahoma State University Institute of Technology-Okmulgee and Oklahoma State University-Tulsa. **(70-17-101)**

Note: Amended by SB 377, Sec. 1 of the 2011 Reg. Sess. Effective November 1, 2011.

The term "teacher" in 70-17-105(a) is any person who meets the requirements of 70-1-116(l) and fiscal year expenditure limits of Oklahoma Constitution, Art. X, Section 26 are applicable to payment of additional retirement compensation. *February 12, 1990 (AG Op. No. 89-67)*

Section 347. Employees of Oklahoma Board of Private Vocational Schools - Retirement Status.

A. Except as otherwise provided for in this section, employees of the Oklahoma Board of Private Vocational Schools shall be members of the Teachers' Retirement System of Oklahoma.

B. Employees of the Oklahoma Board of Private Vocational Schools who were as of June 30, 1986, employees of the Oklahoma Board of Private Schools and members of the Oklahoma Public Employees Retirement System shall cease accruing benefits in the Oklahoma Public Employees Retirement System and commence accruing benefits under the Teachers' Retirement System of Oklahoma on August, 1, 1986. The Oklahoma Public Employees Retirement System shall transfer to the Teachers' Retirement System of Oklahoma the retirement records for each such employee and the actual amount contributed to the Oklahoma Public Employees Retirement System by the state and by each such employee transferring to the Oklahoma Teachers' Retirement System. All years and months of service accrued by each such employee pursuant to the provisions of the Oklahoma Public Employees Retirement System shall be treated as credited service in the Teachers' Retirement System of Oklahoma.

C. Employees of the Oklahoma Board of Private Vocational Schools who were as of June 30, 1986, employees of the Oklahoma Board of Private Schools and members of the Oklahoma Public Employees Retirement System, individually may choose to remain members of the Oklahoma Public Employees Retirement System. Any such employee choosing to remain a member of the Oklahoma Public Employees Retirement System shall submit written notification of such choice to the Oklahoma Department of Career and Technology Education prior to August 1, 1986. On August 1, 1986, the Oklahoma Department of Career and Technology Education shall notify the Oklahoma Public Employees Retirement System of those employees who chose to remain members of the Oklahoma Public Employees Retirement System and such employees shall not be transferred from the Oklahoma Public Employees Retirement System to the Teachers' Retirement System of Oklahoma. **(70-17-101.1)**

Section 348. Retirement System.

A retirement system is hereby established and placed under the management of the Board of Trustees for the purpose of providing retirement allowances and other benefits under the provisions of this act for teachers of the State of Oklahoma.

The Board of Trustees shall have the power and privileges of a corporation and shall be known as the "Board of Trustees of the Teachers' Retirement System of Oklahoma", and by such name all of its business shall be transacted, all of its funds invested, and all of its cash and securities and other property held in trust for the purpose for which received. **(70-17-102)**

Section 349. Termination of Retirement Plan.

(1) In the event a plan of the retirement system is terminated or partially terminated the right of all participants or in the event of partial termination the rights of the affected participants, whether retired or otherwise, shall become fully vested.

(2) In the event of termination of the plan, the Board of Trustees shall distribute the net assets of the fund, allowing a period of not less than six (6) nor more than nine (9) months for dissolution of disability claims, as follows:

(a) First, accumulated contributions shall be allocated to each respective participant, former participant, retired member, joint annuitant or beneficiary then receiving payments. If these assets are insufficient for this purpose, they shall be allocated to each such person in the proportion which his accumulated contributions bear to the total of all such participants' accumulated contributions. For purposes of this section, contribution means payment into the system by an employer or employee for the benefit of an individual employee.

(b) The balance of such assets, if any, remaining after making the allocations provided in subparagraph (a) of this section shall be disposed of by allocating to each person then having an interest in the fund the excess of his retirement income under the plan less the retirement income which is equal to the actuarial equivalent of the amount allocated to him under subparagraph (a) of this section. Such allocation shall be made with the full amount of the remaining assets to be allocated to the persons in each group in the following order of precedence:

(I) those retired members, joint annuitants or beneficiaries receiving benefits,

(ii) those members eligible to retire,

(iii) those members eligible for early retirement,

(iv) former participants electing to receive a vested benefit, and

(v) all other members.

In the event the balance of the fund remaining after all allocations have been made with respect to all retirement income in a preceding group is insufficient to allocate the full actuarial equivalent of such retirement income to all persons in the group for which it is then being applied, such balance of the fund shall be allocated to each person in such group in the proportion which the actuarial equivalent of the retirement income allocable to him pursuant to such group bears to the total actuarial equivalent of the retirement income so allocable to all persons in such group.

Provided no discrimination in value results, the Board of Trustees shall distribute the amounts so allocated in one of the following manners as the Board of Trustees in their discretion may determine:

(i) by continuing payment of benefits as they become due, or

(ii) by paying, in cash, the amount allocated to any such person. **(70-17-102.1)**

Section 350. Compliance with Internal Revenue Code.

The retirement system shall satisfy the applicable qualification requirements for governmental plans as specified in Sections 401 and 414(d) of the Internal Revenue Code of 1954 or 1986, as amended from time to time and as appropriate for a governmental plan (hereinafter referred to as the "Code"). In addition to other Code provisions otherwise noted, and in order to satisfy the applicable requirements under the Code, the retirement system shall be subject to the following provisions, notwithstanding any other provision of the retirement system law:

(1) The Board of Trustees shall distribute the corpus and income of the retirement system to the members and their beneficiaries in accordance with the retirement system law.

(2) Forfeitures arising from severance of employment, death, or for any other reason may not be applied to increase the benefits any member would otherwise receive under the retirement system law.

(3) All benefits paid from the retirement system shall be distributed in accordance with the requirements of Code Section 401(a)(9) and the regulations thereto. In order to meet these requirements, the retirement system shall be administered in accordance with the following provisions:

(a) The life expectancy of a member or the member's spouse may not be recalculated after the benefits commence.

(b) If a member dies before the distribution of the member's benefits has begun, distributions to beneficiaries must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died.

(c) The amount of benefits payable to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of the Code.

(4) The Board of Trustees or its designee may not:

(a) determine eligibility for benefits,

(b) compute rates of contribution, or

(c) compute benefits of members or beneficiaries, in a manner that discriminates in favor of members who are considered officers, supervisors, or highly compensated, as prohibited under Code Section 401(a)(4).

(5) Benefits paid from the retirement system shall not exceed the maximum benefits permissible under Code Section 415.

(6) The Board of Trustees may not engage in a transaction prohibited by Code Section 503(b).

(7) To the extent required by Code Section 401(a)(31), the retirement system shall allow members and qualified beneficiaries to elect a direct rollover of eligible distributions to another eligible retirement plan. **(70-17-102.2)**

Section 351. Compliance with Grandfather Program Requirements.

The Tax-Sheltered Annuity Program provided by Section 17-101 et seq. of this title shall satisfy the applicable qualification requirements for grandfathered governmental tax-sheltered annuity programs as specified in 26 U.S.C. Section 403(b) and the relevant regulatory provisions and guidance related thereto. In order to satisfy these requirements and guidelines, the Teachers' Retirement Tax-Sheltered Annuity Program shall be subject to the following provisions, notwithstanding any other provision of the law governing the Oklahoma Teachers' Retirement System:

(1) The Board of Trustees shall administer and distribute the corpus and income of the Tax-Sheltered Annuity Program to members and their beneficiaries pursuant to the applicable requirements under 26 U.S.C. Section 403(b), relevant regulatory provisions and guidance under 26 U.S.C. Section 403(b), and in accordance with the law governing the Oklahoma Teachers' Retirement System.

(2) All benefits paid from the retirement system shall be distributed in accordance with the applicable requirements of 26 U.S.C. Sections 403(b)(10) and 401(a)(9) and the regulations thereto.

(3) To the extent required by 26 U.S.C. Sections 403(b)(10) and 401(a)(31), the retirement system shall allow members and qualified beneficiaries to elect a direct rollover of eligible distributions to another eligible retirement plan.

(4) To the extent required under 26 U.S.C. Section 403(b)(11) and the regulations thereto, distributions under the Tax-Sheltered Annuity Program shall only be paid when the member attains the age of fifty-nine and one-half (59 ½) years, separates from service, dies, becomes disabled, or in the case of hardship. **(70-17-102.3)**

Section 352. Membership of Retirement System.

Except as provided in the Alternate Retirement Plan for Comprehensive Universities Act, the membership of the retirement system shall consist of the following:

(1) All classified personnel shall become members of the retirement system as a condition of their employment;

(2) All full-time nonclassified optional personnel regularly employed for more than one (1) year may join the Teachers' Retirement System subject to the rules and regulations adopted pursuant to this act. Subject to the outcome of the private letter ruling request (2003) submitted by the Board to the Internal Revenue Service (2001), the System shall permit eligible nonclassified optional personnel who have ceased to make otherwise required employee contributions after having made an election to become a member of the retirement system to resume employee contributions. No service shall be credited to any such member for any period of time during which employee contributions were not made;

(3) All persons who shall become classified personnel or who are regularly employed in any school system as new classified personnel after July 1, 1943, hereof, shall become members of the retirement system as a condition of their employment;

(4) All other regular school employees may join the Teachers' Retirement System subject to the rules and regulations as may be adopted by the Board of Trustees of the Teachers' Retirement System;

(5) The Board of Trustees may, in its discretion, deny the right to become members to any class of members whose compensation is only partly paid by the state, or who is serving on a temporary or other than per annum basis, and it also may, in its discretion, make optional with members in any such class their individual entrance into the retirement system; and

(6) Should any member, with less than ten (10) years of teaching service in Oklahoma, in any period of six (6) consecutive years after becoming a member be absent from service more than five (5) years, withdraw his contributions, retire or die, he shall thereupon cease to be a member. The provisions of this paragraph shall not apply to any member

of the Teachers' Retirement System who has been a member of such classes of military services as may be approved by the Board of Trustees, until a period of one and one-half (1 1/2) years from date of termination of such service shall have elapsed. **(70-17-103)**

Retirement System must accept a request for membership by an individual required to be a member as a classified employee but for whom no deductions or employer contributions have been made, upon tender by applicant of all employee contributions for the omitted years. *December 31, 1979 (AG Op. No 79-264)*

Section 353. Oklahoma Cooperative Extension Service Employees.

Employees of the Oklahoma State University Cooperative Extension Service who are members of the Oklahoma Public Employees Retirement System shall cease accruing benefits in the Oklahoma Public Employees Retirement System and shall commence accruing benefits under the Teachers' Retirement System of Oklahoma on July 1, 1987. On January 1, 1988, the Oklahoma Public Employees Retirement System shall transfer to the Teachers' Retirement System of Oklahoma the actual amount contributed to the Oklahoma Public Employees Retirement System by the state and by each employee of the Oklahoma State University Cooperative

Extension Service transferring to the Teachers' Retirement System of Oklahoma and the retirement records of those transferring employees. Service accrued by said employee of the Oklahoma State University Cooperative Extension Service under the Oklahoma Public Employees Retirement System shall be treated as credited service under the Teachers' Retirement System of Oklahoma. Provided however, that the cumulative total of credited service for a transferring employee shall not exceed the total time said employee could have accrued if the employee's entire employment with the State of Oklahoma had been as an employee of the Oklahoma State University Cooperative Extension Service. **(70-17-103.1)**

Section 354. Prior Service Credit.

(1) Under such rules and regulations as the Board of Trustees shall adopt, each member who became a member within one (1) year after July 1, 1943, shall file a detailed statement of all service as a member rendered by him prior to the date of establishment for which he claims credit.

(2) The Board of Trustees shall fix and determine by appropriate rules and regulations how much service in any year is equivalent to one (1) year of service, but in no case shall it allow any credit for a period of absence without pay of more than one (1) month's duration nor shall more than one (1) year of service be creditable for all services in one (1) school year. Service rendered for a regular school year shall be equivalent to one (1) year's service.

(a) Prior service credit shall be granted to any member who shall become a member when he has completed one (1) year of membership service credit. Prior service shall include years taught in what is now Oklahoma preceding statehood.

1. Subject to the above restrictions and to such other rules and regulations as the Board of Trustees may adopt, the Board of Trustees shall verify, as soon as practicable after the filing of such statements of service, the service therein claimed.

2. Upon verification of the statements of service, the Board of Trustees shall issue prior service certificates certifying to each member the length of service rendered prior to the date of establishment, with which he is credited on the basis of his statement of service. So long as membership continues, a prior service certificate shall be final and conclusive for retirement purposes as to such service; provided, however, the Board of Trustees may, upon request of the member, modify or correct his prior service certificate. The prior service credit and certificate of a member who has retired may be corrected, if incorrect. When the correction constitutes an addition to the retired members' service record, the Board of Trustees may grant allowance retroactively as the facts justify.

When membership ceases such prior service certificate shall become void. Should the former member return to service in Oklahoma, he shall again become a member not entitled to prior service credit, with the provision that he may reestablish his prior service credit by redepositing in the appropriate fund the amount formerly withdrawn, with the interest at five percent (5%) per annum from the date membership ceased to the date of redeposit; provided, however, effective January 1, 1990, the rate of interest provided herein shall be ten percent (10%) per annum. No member shall be permitted to take advantage of this provision for restoration of prior service more than one time.

(b) Any person who is, or shall become, a member of the Teachers' Retirement System may receive prior service credit for not more than five (5) years of service rendered in public schools, state colleges, or state universities outside this state prior to July 1, 1943, subject to the regulations of the Board of Trustees, provided he is not receiving, and is not eligible to receive, retirement credit or benefits for this service in any other teacher retirement system, subject to the following provision:

1. The member is required to have two (2) years of creditable service teaching earned in Oklahoma for each year of out-of-state credit granted.

(3) Any teacher who served in the Armed Forces of the United States of America prior to July 1, 1943, during World War I or World War II, whose service was terminated by an honorable discharge and who qualifies for prior service credit under the terms of this act shall be granted prior service teaching credit by the Board of Trustees for the period of such service in the Armed Forces, occurring prior to July 1, 1943, upon presentation to the Board of Trustees of satisfactory proof of such service in the Armed Forces. The amount of prior service teaching credit to be allowed such teacher shall be determined by the Board of Trustees. **(70-17-104)**

Section 355. Retirement.

(1) (a) Any member who has attained age fifty-five (55) or who has completed thirty (30) years of creditable service, as defined in Section 17-101 of this title, or for any person who initially became a member prior to July 1, 1992, regardless of whether there were breaks in service after July 1, 1992, whose age and number of years of creditable service total eighty (80) may be retired upon filing a written application for such retirement. Such a retirement date will also apply to any person who became a member of the sending system as defined in this act, prior to July 1, 1992, regardless of whether there were breaks in service after July 1, 1992. Any person who became a member after June 30, 1992, but prior to November 1, 2011, whose age and number of years of creditable service total ninety (90) may be retired upon filing a written application for such retirement. Any person who becomes a member on or after November 1, 2011, who attains the age of sixty-five (65) years or who reaches a normal retirement date pursuant to subparagraph (d) of paragraph (24) of Section 17-101 of this title having attained a minimum age of sixty (60) years may be retired upon filing a written application for such retirement. The application shall be filed on the form provided by the Board of Trustees for this purpose, not less than thirty (30) days nor more than ninety (90) days before the date of retirement.

(b) An individual who becomes a member of the Teachers' Retirement System after July 1, 1967, shall be employed by the public schools, state colleges or universities of Oklahoma for a minimum of five (5) years and be a contributing member of the Teachers' Retirement System of Oklahoma for a minimum of five (5) years to qualify for monthly retirement benefits from the Teachers' Retirement System of Oklahoma.

(c) Any member with five (5) or more years of Oklahoma teaching service and whose accumulated contributions during such period have not been withdrawn shall be given an indefinite extension of membership beginning with the sixth year following his or her last contributing membership and shall become eligible to apply for retirement and be retired upon attaining age fifty-five (55).

(2) An unclassified optional member who has retired or who retires at sixty-two (62) years of age or older or whose retirement is because of disability shall have his or her minimum retirement benefits calculated on an average salary of Five Thousand Three Hundred Fifty Dollars ($5,350.00) or, if a larger monthly allowance would result, an amount arrived at pursuant to application of the formula prescribed herein.

(3) No member shall receive a lesser retirement benefit than he or she would have received under the law in effect at the time he or she retired. Any individual under the Teachers' Retirement System, who through error in stating the title of the position which he or she held, may, at the discretion of the Board of Trustees, be changed from the nonclassified optional group to the classified group for the purpose of calculating retirement benefits.

Any individual regardless of residence, who has a minimum of ten (10) years of teaching in Oklahoma schools prior to July 1, 1943, or who taught in Oklahoma schools prior to 1934 and thereafter taught a minimum of ten (10) years and who does not qualify under the present retirement System, or who has a minimum of thirty (30) years of teaching in Oklahoma schools and has reached seventy (70) years of age prior to July 1, 1984, and is not otherwise eligible to receive any benefits from the retirement system shall receive a minimum of One Hundred Fifty Dollars ($150.00) per month in retirement benefits from the Teachers' Retirement System of Oklahoma plus any general increase in benefits for annuitants as may be provided hereafter by the Legislature. Each individual must apply to the Teachers' Retirement

System for such benefit and provide evidence to the Teachers' Retirement System that the service was actually rendered. The surviving spouse of any person who made application for the benefit provided for by this paragraph during his or her lifetime but did not receive said benefit may submit an application to the System for payment of said benefit for those months during the lifetime of the deceased person that he or she was eligible for but did not receive the benefit. Upon approval of the application by the Board of Trustees, the benefit shall be paid to the surviving spouse in one lump sum.

(4) The value of each year of prior service is the total monthly retirement benefit divided by the number of years of creditable service.

(5) Upon application of a member who is actively engaged in teaching in Oklahoma or his or her employer, any member who has been a contributing member for ten (10) years may be retired by the Board of Trustees not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing thereof, on a disability retirement allowance, provided that it is found by the Board of Trustees after medical examination of such member by a duly qualified physician that such member is mentally or physically incapacitated for further performance of duty, that such incapacity is likely to be permanent, and that such member should be retired. The Board of Trustees shall give due consideration to the conclusions and recommendations in the certified written report of the Medical Board of the Teachers' Retirement System regarding the disability application of such member. If a member is determined to be eligible for disability benefits pursuant to the Social Security System, then such determination shall entitle the member to the authorized disability retirement allowance provided by law. For members who are not eligible for disability benefits pursuant to the Social Security System, the Board of Trustees shall apply the same standard for which provision is made in the first two sentences of this subsection for determining the eligibility of a person for such disability benefits in making a determination of eligibility for disability benefits as authorized by this subsection.

(6) (a) A member who at the time of retirement has been found to be permanently physically or mentally incapacitated to teach school shall receive a minimum monthly retirement payment for life or until such time as the member may be found to be recovered to the point where he or she may return to teaching. Any member retired before July 1, 1992 shall be eligible to receive the monthly retirement allowance herein provided, but such payment shall not begin until the first payment due him or her after July 1, 1992, and shall not be retroactive. The Board of Trustees is empowered to make such rules and regulations as it considers proper to preserve equity in retirements under this provision, which shall include a provision to protect the rights of the member's spouse.

(b) A member who has qualified for retirement benefits under disability retirement shall have the total monthly payment deducted from his or her accumulated contributions plus interest earned and any money remaining in the member's account after the above deductions at the death of the member shall be paid in a lump sum to the beneficiary or to the estate of the member. Provided, if the deceased disabled member had thirty (30) years or more of creditable service and the death occurred after June 30, 1981, and death occurred prior to the disabled member receiving twelve monthly retirement payments, a surviving spouse may elect to receive the retirement benefit to which the deceased member would have been entitled at the time of death under the Option 2 Plan of Retirement provided for in subsection (8) of this section in lieu of the death benefit provided for in this subsection and in subsection (12) of this section.

(c) Once each year the Board of Trustees may require any disabled annuitant who has not yet attained the age of sixty (60) years to undergo a medical examination, such examination to be made at the place of residence for said disabled annuitant or other place mutually agreed upon by a physician or physicians designated by the Board of Trustees. Should any disabled annuitant who has not yet attained the age of sixty (60) years refuse to submit to at least one medical examination in any such year by a physician or physicians designated by the Board of Trustees his or her allowance may be discontinued until he or she submits to such examination.

(d) Should the Medical Board report and certify to the Board of Trustees that such disabled annuitant is engaged in or is able to engage in a gainful occupation paying more than the difference between his or her retirement allowance and the average final compensation, and should the Board of Trustees concur in such report then the amount of his or her pension shall be reduced to an amount which, together with his or her retirement allowance and that amount earnable by him or her, shall equal the amount of his or her average final compensation. Should his or her earning capacity be later increased, the amount of his or her pension may be further modified, provided the new pension shall not exceed that amount of the pension originally granted nor an amount, which when added to the amount earnable by the member, together with his or her annuity, equals the amount of his or her average final compensation.

(e) Should a disabled annuitant be restored to active service, his or her disability retirement allowance shall cease and he or she shall again become a member of the Teachers' Retirement System and shall make regular contributions

as required under this article. The unused portion of his or her accumulated contributions shall be reestablished to his or her credit in the Teachers' Savings Fund. Any such prior service certificates on the basis of which his or her service was computed at the time of his or her retirement shall be restored to full force and effect.

(7) Should a member before retirement under Section 1-101 et seq. of this title make application for withdrawal duly filed with the Board of Trustees and approved by it, not earlier than four (4) months after the date of termination of such service as a teacher, the contribution standing to the credit of his or her individual account in the Teachers' Savings Fund shall be paid to him or her or, in the event of his or her death before retirement, shall be paid to such person or persons as he or she shall have nominated by written designation, duly executed and filed with the Board of Trustees; provided, however, if there be no designated beneficiary surviving upon such death, such contributions shall be paid to his or her administrators, executors, or assigns, together with interest as hereinafter provided. In lieu of a lump-sum settlement at the death of the member, the amount of money the member has on deposit in the Teachers' Savings Fund and the money the member has on deposit in the Teachers' Deposit Fund may be paid in monthly payments to a designated beneficiary, who must be the spouse, under the Maximum or Option 1 Plan of Retirement providing the monthly payment shall be not less than Twenty-five Dollars ($25.00) per month. The monthly payment shall be the actuarial equivalent of the amount becoming due at the member's death based on the sex of the spouse and the age the spouse has attained at the last birthday prior to the member's death. Provided further, if there be no designated beneficiary surviving upon such death, and the contributions standing to the credit of such member do not exceed Two Hundred Dollars ($200.00), no part of such contributions shall be subject to the payment of any expense of the last illness or funeral of the deceased member or any expense of administration of the estate of such deceased and the Board of Trustees, upon satisfactory proof of the death of such member and of the name or names of the person or persons who would be entitled to receive such contributions under the laws of descent and distribution of the state, may authorize the payment of accumulated contributions to such person or persons. A member terminating his or her membership by withdrawal after June 30, 2003, shall have the interest computed at a rate of interest determined by the Board of Trustees and paid to him or her subject to the following schedule:

(a) If termination occurs within sixteen (16) years from the date membership began, fifty percent (50%) of such interest accumulations shall be paid.

(b) With at least sixteen (16) but less than twenty-one (21) years of membership, sixty percent (60%) of such interest accumulations shall be paid.

(c) With at least twenty-one (21) but less than twenty-six (26) years of membership, seventy-five percent (75%) of such interest accumulations shall be paid.

(d) With at least twenty-six (26) years of membership, ninety percent (90%) of such interest accumulations shall be paid.

In case of death of an active member, the interest shall be calculated and restored to the member's account and paid to his or her beneficiary.

(8) (a) In lieu of his or her retirement allowance payable throughout life for such an amount as determined under this section, the member may select a retirement allowance for a reduced amount payable under any of the following options the present value of which is the actuarial equivalent thereof.

(b) A member may select the option under which he or she desires to retire at the end of the school year in which he or she attains age seventy (70) and said option shall be binding and cannot be changed. Provided further that if a member retires before age seventy (70), no election of an option shall be effective in case an annuitant dies before the first payment due under such option has been received.

(c) The first payment of any benefit selected shall be made on the first day of the month following approval of the retirement by the Board of Trustees. If the named designated beneficiary under Option 2 or 3 dies at any time after the member's retirement date, but before the death of the member, the member shall return to the retirement benefit, including any post retirement benefit increases the member would have received had the member not selected Option 2 or 3 of this subsection. The benefit shall be determined at the date of death of the designated beneficiary or July 1, 1994, whichever is later. This increase shall become effective the first day of the month following the date of death of the designated beneficiary or July 1, 1994, whichever is later, and shall be payable for the member's remaining lifetime. The member shall notify the Teachers' Retirement System of Oklahoma of the death of the designated beneficiary in

writing. In the absence of said written notice being filed by the member notifying the Teachers' Retirement System of Oklahoma of the death of the designated beneficiary within six (6) months of the date of death, nothing in this subsection shall require the Teachers' Retirement System of Oklahoma to pay more than six (6) months of retrospective benefits increase.

Option 1. If he or she dies before he or she has received in annuity payments the present value of his or her annuity as it was at the time of his or her retirement, the balance shall be paid to his or her legal representatives or to such person as he or she shall nominate by written designation duly acknowledged and filed with the Board of Trustees at the time of his or her retirement; or

Option 2. A member takes a reduced retirement allowance for life. Upon the death of the member the payments shall continue to the member's designated beneficiary for the life of the beneficiary. The written designation of the beneficiary must be duly acknowledged and filed with the Board of Trustees at the time of the member's retirement and, except as provided in paragraph (e) of this subsection, cannot be changed after the effective date of the member's retirement; or

Option 3. A member receives a reduced retirement allowance for life. Upon the death of the member one-half (1/2) of the retirement allowance paid the member shall be continued throughout the life of the designated beneficiary. A written designation of a beneficiary must be duly acknowledged and filed with the Board of Trustees at the time of the member's retirement and, except as provided in paragraph (e) of this subsection, cannot be changed after the effective date of the member's retirement; or

Option 4. Some other benefit or benefits shall be paid either to the member or to such person or persons as he or she shall nominate, provided such other benefit or benefits, together with the reduced retirement allowance, shall be certified by the actuary to be of equivalent actuarial value to his or her retirement allowance and shall be approved by the Board of Trustees.

(d) Provided that Option 2 and Option 3 shall not be available if the member's expected benefit is less than fifty percent (50%) of the lump-sum actuarial equivalent and the designated beneficiary is not the spouse of the member.

(e) A member who chose the maximum retirement benefit plan at the time of retirement may make a one-time election to choose either Option 2 or 3 and name the member's spouse as designated beneficiary if the member marries after making the initial election. Such an election shall be made by July 1, 2011, or within one (1) year of the date of marriage, whichever is later. The member shall provide proof of a member's good health before the Board of Trustees will permit a change to either Option 2 or 3 and the naming of a designated beneficiary. A medical examination conducted by a licensed physician is required for purposes of determining good health. Such examination must be approved by the Medical Board. The member shall be required to provide proof of age for the new beneficiary. The Board of Trustees shall adjust the monthly benefit to the actuarially equivalent amount based on the new designated beneficiary's age. The Board of Trustees shall promulgate rules to implement the provisions of this subsection.

(f) A member who retires after the effective date of this act and has selected a retirement allowance for a reduced amount payable under one of the options provided for in this subsection may make a one-time irrevocable election to select a different option within sixty (60) days of the member's retirement date. The beneficiary designated by the member at the time of retirement shall not be changed if the member makes the election provided for in this paragraph.

(9) The governing board of any "public school", as that term is defined in Section 17-101 of this title, is hereby authorized and empowered to pay additional retirement allowances or compensation to any person who was in the employ of such public school for not less than seven (7) school years preceding the date of his or her retirement. Payments so made shall be a proper charge against the current appropriation or appropriations of any such public school for salaries for the fiscal year in which such payments are made. Such payments shall be made in regular monthly installments in such amounts as the governing board of any such public school, in its judgment, shall determine to be reasonable and appropriate in view of the length and type of service rendered by any such person to such public school by which such person was employed at the time of retirement. All such additional payments shall be uniform, based upon the length of service and the type of services performed, to persons formerly employed by such public school who have retired or been retired in accordance with the provisions of Section 1-101 et seq. of this title.

The governing board of any such public school may adopt rules and regulations of general application outlining the terms and conditions under which such additional retirement benefits shall be paid, and all decisions of such board shall be final.

(10) In addition to the teachers' retirement herein provided, teachers may voluntarily avail themselves of the Federal Social Security Program upon a district basis.

(11) Upon the death of an in-service member, the System shall pay to the designated beneficiary of the member or, if there is no designated beneficiary or if the designated beneficiary predeceases the member, to the estate of the member, the sum of Eighteen Thousand Dollars ($18,000.00) as a death benefit. Provided, if the deceased member had ten (10) years or more of creditable service and the death occurred after February 1, 1985, the member's designated beneficiary may elect to receive the retirement benefit to which the deceased member would have been entitled at the time of death under the Option 2 plan of retirement in lieu of the death benefit provided for in this subsection. Provided further, the option provided in this subsection is only available when the member has designated one individual as the designated beneficiary. The beneficiary or beneficiaries of death benefits in the amount not to exceed Eighteen Thousand Dollars ($18,000.00), but exclusive of any retirement benefit received by an electing beneficiary based upon creditable service performed by the deceased member, which are provided pursuant to this subsection may elect to disclaim such death benefits in which case such benefits will be transferred to a person licensed as a funeral director or to a lawfully recognized business entity licensed as required by law to provide funeral services for the deceased member. The qualified disclaimer must be in writing and will be an irrevocable and an unqualified refusal to accept all or a portion of the death benefit. It must be received by the transferor no more than nine (9) months after the later of the day the transfer creating the interest in the disclaiming person is made or the day the disclaiming person attains age twenty-one (21). The interest in the death benefits must pass without direction by the disclaiming person to another person.

(12) Upon the death of an annuitant who has contributed to the System, the retirement system shall pay to the designated beneficiary of the annuitant or, if there is no designated beneficiary or if the designated beneficiary predeceases the annuitant, to the estate of the annuitant, the sum of Five Thousand Dollars ($5,000.00) as a death benefit. The beneficiary or beneficiaries of benefits provided pursuant to this subsection may elect to disclaim such death benefits in which case such benefits will be transferred to a person licensed as a funeral director or to a lawfully recognized business entity licensed as required by law to provide funeral services for the deceased member. The qualified disclaimer must be in writing and will be an irrevocable and an unqualified refusal to accept all or a portion of the death benefit. It must be received by the transferor no more than nine (9) months after the later of the day the transfer creating the interest in the disclaiming person is made or the day the disclaiming person attains age twenty-one (21). The interest in the death benefits must pass without direction by the disclaiming person to another person. The benefit payable pursuant to this subsection shall be deemed, for purposes of federal income taxation, as life insurance proceeds and not as a death benefit if the Internal Revenue Service approves this provision pursuant to a private letter ruling request which shall be submitted by the board of trustees of the System for that purpose.

(13) Upon the death of a member who dies leaving no living beneficiary or having designated his or her estate as beneficiary, the System may pay any applicable death benefit, unpaid contributions, or unpaid benefit which may be subject to probate, in an amount of Five Thousand Dollars ($5,000.00) or less, without the intervention of the probate court or probate procedure pursuant to Section 1 et seq. of Title 58 of the Oklahoma Statutes.

(a) Before any applicable probate procedure may be waived, the System must be in receipt of the member's proof of death and the following documents from those persons claiming to be the legal heirs of the deceased member:

1. The member's valid last will and testament;

2. An affidavit or affidavits of heirship which must state:

a. the names and signatures of all claiming heirs to the deceased member's estate including the claiming heirs' names, relationship to the deceased, current addresses and current telephone numbers,

b. a statement or statements by the claiming heirs that no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction,

c. a statement that the value of the deceased member's entire estate is subject to probate, and that the estate wherever located, less liens and encumbrances, does not exceed Five Thousand Dollars ($5,000.00), including the payment of benefits or unpaid contributions from the System as authorized by this subsection,

d. a description of the personal property claimed, (i.e., death benefit or unpaid contributions or both) together with a statement that such personal property is subject to probate,

e. a statement by each individual claiming heir identifying the amount of personal property that the heir is claiming from the System, and that the heir has been notified of, is aware of and consents to the identified claims of all the other claiming heirs of the deceased member pending with the System;

3. A written agreement or agreements signed by all claiming heirs of the deceased member which provides that the claiming heirs release, discharge and hold harmless the System from any and all liability, obligations and costs which it may incur as a result of making a payment to any of the deceased member's heirs;

4. A corroborating affidavit from an individual other than a claiming heir, who was familiar with the affairs of the deceased member;

5. Proof that all debts of the deceased member, including payment of last sickness, hospital, medical, death, funeral and burial expenses have been paid or provided for.

(b) The Executive Director of the System shall retain complete discretion in determining which requests for probate waiver may be granted or denied, for any reason. Should the System have any question as to the validity of any document presented by the claiming heirs, or as to any statement or assertion contained therein, the probate requirement provided for in Section 1 et seq. of Title 58 of the Oklahoma Statutes, shall not be waived.

(c) After paying any death benefits or unpaid contributions to any claiming heirs as provided pursuant to this subsection, the System is discharged and released from any and all liability, obligation and costs to the same extent as if the System had dealt with a personal representative of the deceased member. The System is not required to inquire into the truth of any matter specified in this subsection or into the payment of any estate tax liability.

(14) Upon the death of a retired member, the benefit payment for the month in which the retired member died, if not previously paid, shall be made to the beneficiary of the member or to the member's estate if there is no beneficiary. Such benefit payment shall be made in an amount equal to a full monthly benefit payment regardless of the day of the month in which the retired member died. **(70-17-105)**

Note: Amended by SB 377, Sec. 2 of the 2011 Reg. Sess., effective November 1, 2011 & HB 2004, Sec. 1 of the 2011 Reg. Sess., effective July 1, 2011.

An early retirement incentive plan which provided for termination of benefits in succeeding years if "[b]ecause of lack of funds, the Board of Education does not authorize such payments in any subsequent fiscal year," created an ambiguous contract. It was therefore for the jury to determine what the parties meant by "lack of funds," and such determination would be upheld. *Ahlschlager v. Lawton School District*, 2010 OK 41.

Statute does not violate constitutional provision regarding fiscal year limitations. *Matter of Tax Protest of Steve Beebe*, 1999 OK CIV APP 69, 986 P.2d 525.

Board of Education is authorized to pay additional retirement allowances to any person who (1) meets the requirements of 70-1-116(l); (2) has been employed with the public school from which the additional benefits will be paid for at least ten years preceding retirement; and (3) is a member of the Oklahoma Teachers' Retirement System. The term "teacher" in 70-17-105(a) is any person who meets the requirements of 70-1-116(l) and fiscal year expenditure limits of Oklahoma Constitution, Art. X, Section 26 are applicable to payment of additional retirement compensation. *February 12, 1990 (AG Op. No. 89-67)*

Where there is no designated beneficiary or where designated beneficiary has predeceased the annuitant, payment of death benefit must be made to estate of annuitant and not directly to next of kin. *January 24, 1988 (AG Op. No. 83-102)*

Section 356. Payment of Balance of Deceased Member's Accumulated Contributions.

In the event the total retirement payments made to a retired member and the retired member's joint annuitant, if any, are less than the member's accumulated contributions with interest as credited at the time of retirement under Section 17-105 of this title, the difference shall be paid to the member's designated beneficiary or if no designated beneficiary survives, then to the member's nearest surviving next of kin as determined by law. This provision shall apply to retired members dying on or after July 1, 1979. **(70-17-105.1)**

Section 356.1. Partial Lump Sum Payment.

A. A member who is eligible to retire with at least thirty (30) years of creditable service may elect to receive a partial lump-sum payment on the date of retirement and a reduced annuity. The partial lump-sum payment shall be an amount equal to the unreduced retirement benefit, which shall be referred to as the "Maximum Retirement Allowance" for purposes of this section, which would have been paid over a period of twelve (12), twenty-four (24) or thirty-six (36) months, had the lump-sum option not been elected. Once the payout amount is elected, a reduced Maximum Retirement Allowance is then calculated using factors adopted by the Board of Trustees based upon the System's actuarial expected rate of return and the member's age at retirement and the payout option (twelve (12), twenty-four (24), or thirty-six (36) months) elected. This reduced Maximum Retirement Allowance shall also be reduced in accordance with any retirement options the member has elected pursuant to Section 17-105 of Title 70 of the Oklahoma Statutes.

B. The partial lump-sum payment, pursuant to this section, shall be paid in a check separate from the regular monthly retirement benefit. The total amount of the partial lump-sum payment shall be deducted from the member's account balance consisting of the employee contributions plus interest for purposes of determining unused contributions remaining in the account. The member may elect to rollover the taxable portion of the partial lump-sum payment to an eligible retirement plan or individual retirement account (IRA). The nontaxable portion of the partial lump-sum payment can be rolled over to an IRA or another qualified retirement plan as allowed by the Internal Revenue Code and regulations. This partial lump-sum payment shall be subject to federal income tax in accordance with the Internal Revenue Code Section 72 and other such Internal Revenue Code sections and regulations as may be applicable. This partial lump-sum benefit is subject to the same restrictions for assignment and attachment as all other retirement benefits. The appropriate portion of the partial lump-sum distribution will be reported to the Internal Revenue Service (IRS) as taxable income and appropriate tax withholdings will be withheld unless the member elects to make a direct rollover of the taxable portion of the funds. Should the member have after-tax contributions, a portion of such after-tax contributions will be allocated to the partial lump-sum payment and to the remaining annuity on a prorata basis.

C. The partial lump-sum option under this section may be elected only once by a member and may not be elected by a retiree.

D. The board of trustees shall promulgate any rules necessary for the implementation of this section. **(70-17-105.2)**

Section 357. Board of Trustees.

(1) The general administration and responsibility for the proper operation of the retirement system and for making effective the provisions of the act are hereby vested in a Board of Trustees which shall be known as the Board of Trustees and shall be organized immediately after a majority of the trustees provided for in this section shall have qualified and taken the oath of office.

(2) The Board shall consist of the following members:

(a) The State Superintendent of Public Instruction, ex officio or a designee.

(b) The Director of State Finance, ex officio or a designee.

(c) The Director of the Oklahoma Department of Career and Technology Education, ex officio, or his or her designee.

(d) One member appointed by the Governor whose initial term of office shall expire on January 14, 1991. The members thereafter appointed by the Governor shall serve a term of office of four (4) years which is coterminous with the term of office of the office of the appointing authority.

(e) Two members shall be appointed by the Governor of the State of Oklahoma and approved by the Senate. The two members shall be: 1. a representative of a school of higher education in Oklahoma whose term of office shall initially be one (1) year, and 2. a member of the System of the nonclassified optional personnel status whose initial term of office shall be two (2) years. After the initial terms of office the terms of the members shall be four (4) years.

(f) Upon the expiration of the term of office of the stockbroker member of the Board, the Governor shall appoint a member to the Board whose initial term of office shall expire on January 14, 1991. The members thereafter appointed by the Governor shall serve a term of office of four (4) years which is coterminous with the term of office of the office of the appointing authority.

(g) Upon the expiration of the term of office of the representative of the insurance industry member of the Board, the Governor shall appoint a member to the Board whose initial term of office shall expire on January 14, 1991. The members thereafter appointed by the Governor shall serve a term of office of four (4) years which is coterminous with the term of office of the office of the appointing authority.

(h) Upon the expiration of the term of office of the investment counselor member of the Board, the Governor shall appoint a member to the Board whose initial term of office shall expire on January 14, 1991. The members thereafter appointed by the Governor shall serve a term of office of four (4) years which is coterminous with the term of office of the office of the appointing authority.

(i) Upon the expiration of the term of office of the active classroom teacher member of the Board, the President Pro Tempore of the Senate shall appoint a member to the Board, who shall be an active classroom teacher and whose initial term of office shall expire on January 8, 1991. The members thereafter appointed by the President Pro Tempore of the Senate shall serve a term of office of four (4) years.

(j) Upon the expiration of the term of office of the retired classroom teacher member of the Board, the Speaker of the House of Representatives shall appoint a member to the Board, who shall be a retired member of the System and whose initial term of office shall expire on January 8, 1991. The members thereafter appointed by the Speaker of the House of Representatives shall serve a term of office of four (4) years.

(k) The Speaker of the House of Representatives shall appoint a member to the Board, who shall be an active classroom teacher and whose initial term of office shall expire on January 3, 1989. The members thereafter appointed by the Speaker of the House of Representatives shall serve a term of office of four (4) years.

(l) The President Pro Tempore of the Senate shall appoint a member to the Board, who shall be a retired member of the System and whose initial term of office shall expire on January 3, 1989. The members thereafter appointed by the President Pro Tempore of the Senate shall serve a term of office of four (4) years.

(3) Persons who are appointed to the Board of Trustees by the Governor pursuant to paragraphs (d), (f), (g) and (h) of subsection (2) of this section shall:

(a) have demonstrated professional experience in investment or funds management, public funds management, public or private pension fund management or retirement system management; or

(b) have demonstrated experience in the banking profession and have demonstrated professional experience in investment or funds management; or

(c) be licensed to practice law in this state and have demonstrated professional experience in commercial matters; or

(d) be licensed by the Oklahoma State Board of Public Accountancy to practice in this state as a public accountant or a certified public accountant.

The appointing authorities, in making appointments that conform to the requirements of this subsection, shall give due consideration to balancing the appointments among the criteria specified in paragraphs (a) through (d) of this subsection.

(4) No member of the Board of Trustees shall be a lobbyist registered in this state as provided by law.

(5) Notwithstanding any of the provisions of this section to the contrary, any person serving as an appointed member of the Board of Trustees on the operative date of this act shall be eligible for reappointment when the term of office of the member expires.

(6) If a vacancy occurs in the office of a trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.

(7) Each of the trustees, except those who are state officials serving ex officio, shall receive travel expenses in accordance with the State Travel Reimbursement Act.

(8) Each trustee shall, within ten (10) days after his or her appointment or election, take an oath of office that, so far as it devolves upon him or her, the trustee will diligently and honestly administer the affairs of the Board of Trustees and that he or she will not knowingly violate or willingly permit to be violated any of the provisions of law applicable to the retirement system. Such oath shall be subscribed to by the member making it, certified by the officer before whom it is taken, and immediately filed in the office of the Secretary of State.

(9) Each trustee shall be entitled to one vote on the Board of Trustees. Seven votes shall be necessary for a decision by the trustees at any meeting of the Board.

(10) Subject to the limitations of this act, the Board of Trustees shall, from time to time, establish rules and regulations for the administration of the funds created by this act and for the transaction of its business. Provided that such rules and regulations may include rules and regulations providing for the withholding from the retirement allowance due a retired person under the provisions of this act an amount requested in writing by the retiree for the purpose of paying:

(a) monthly premiums on group hospital and surgical insurance programs to which such retiree belongs, and for the transmitting of the sums so withheld to the insurance carrier designated by the retiree; and

(b) membership dues in any statewide association limited to retired educator membership with a minimum membership of one thousand (1,000) dues-paying members and for the transmitting of the sums so withheld.

(11) The Board of Trustees shall elect from its membership a chair, and by a majority vote of all of its members shall appoint a secretary-treasurer, who may be, but need not be, one of its members. The Board shall employ an executive director and shall engage such actuarial and other service as shall be required to transact the business of the retirement system. The compensation of all persons engaged by the Board and all other expenses of the Board necessary for the operation of the retirement system shall be paid at such rates and in such amounts as the Board shall approve.

(12) The members of the Board of Trustees, the Executive Director and the employees of the System shall not accept gifts or gratuities from an individual organization with a value in excess of Fifty Dollars ($50.00) per year. The provisions of this section shall not be construed to prevent the members of the Board of Trustees, the Executive Director or the employees of the System from attending educational seminars, conferences, meetings or similar functions which are paid for, directly or indirectly, by more than one organization.

(13) The Board of Trustees shall keep in convenient form such data as shall be necessary for actuarial valuation of the various funds of the retirement system and for checking the experience of the system.

(14) The Board of Trustees shall keep a record of all of its proceedings which shall be open to public inspection. It shall publish annually a report showing the fiscal transactions of the retirement system for the preceding school year, the amount of the accumulated cash and securities of the system, and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the retirement system and a detailed accounting of its administrative expenses.

(15) The Board of Trustees shall retain an attorney who is licensed to practice law in this state. The attorney shall serve at the pleasure of the Board of Trustees for such compensation as may be provided by the Board of Trustees. The attorney shall advise the Board of Trustees and perform legal services for the Board of Trustees with respect to any matters properly before the Board of Trustees. When requested by the Board of Trustees, the Attorney General of the state also shall render legal services to the Board of Trustees. In addition to the above, the Board of Trustees may employ hearing examiners to conduct administrative grievance hearings under the provisions of the Administrative Procedures Act.

(16) Suitable offices shall be furnished by the Department of Central Services. Upon the failure or inability of the Department of Central Services to provide adequate facilities, the Board of Trustees may contract for necessary office space in suitable quarters.

(17) The Board of Trustees shall designate a Medical Board to be composed of three physicians not eligible to participate in the retirement system. The physicians so appointed by the Board of Trustees shall be legally qualified to practice medicine in Oklahoma and shall be physicians of good standing in the medical profession. If required, other physicians may be employed to report on special cases. The Medical Board shall pass upon all medical examinations required under the provisions of this act and shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement and shall report in writing to the Board of Trustees its conclusion and recommendation upon all the matters referred to it. The Board of Trustees shall adopt such rules and regulations as may be necessary to properly administer this benefit.

(18) The Board of Trustees shall designate an actuary who shall be the technical advisor of the Board of Trustees on matters regarding the operation of funds created by the provisions of this act and shall perform such other duties as are required in connection therewith.

(19) At least once each five (5) years the actuary shall make an actuarial investigation of the experience of the retirement system, including the mortality, service and compensation experience of members and beneficiaries. Based on the results of such investigation the actuary shall recommend for adoption by the Board of Trustees such tables and rates as are required for the operation of the retirement system and for the preparation of annual actuarial valuations.

(20) On the basis of such tables and rates as the Board of Trustees shall adopt, the actuary shall prepare an annual actuarial valuation of the assets and liabilities of the retirement system and certify the rates of contribution payable by the state under the provisions of law concerning the Teachers' Retirement System. **(70-17-106)**

> The State is obligated to actuarily maintain the funding of the Oklahoma Teachers' Retirement System. The State of Oklahoma must fund the unfunded actuarial accrued liability of the retirement system to a level of "actuarial soundness" and amortize the unfunded liability at the rate and term required in the individual system's statutes. Should the State fail to fund or allow a system to become actuarially unsound, such a failure would constitute an impairment of the contractual rights between the State and the members of the system. Furthermore, the State has a general statutory, contractual, and constitutional duty to fund the retirement benefits of current members who have acquired vested rights. *December 31, 1996 (AG Op. No. 96-21)*
>
> Board of Trustees cannot independently establish eligibility requirements for contributions to Teachers' Retirement System. *August 4, 1981 (AG Op. No. 81-147)*

Section 358. Investment Requirements and Procedures - Annual Report.

A. The Board of Trustees of the Teachers' Retirement System of Oklahoma shall discharge their duties with respect to the System solely in the interest of the participants and beneficiaries and:

1. For the exclusive purpose of:

   a. providing benefits to participants and their beneficiaries, and

   b. defraying reasonable expenses of administering the System;

2. With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

3. By diversifying the investments of the System so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

4. In accordance with the laws, documents and instruments governing the System.

B. The Board of Trustees may procure insurance indemnifying the members of the Board of Trustees from personal loss or accountability from liability resulting from a member's action or inaction as a member of the Board.

C. The Board of Trustees may establish an investment committee. The investment committee shall be composed of not more than five (5) members of the Board of Trustees appointed by the chairman of the Board of Trustees. The committee shall make recommendations to the full Board of Trustees on all matters related to the choice of custodians and managers of the assets of the System, on the establishment of investment and fund management guidelines, and in planning future investment policy. The committee shall have no authority to act on behalf of the Board of Trustees in any circumstances whatsoever. No recommendation of the committee shall have effect as an action of the Board of Trustees nor take effect without the approval of the Board of Trustees as provided by law.

D. The Board of Trustees may retain qualified investment managers to provide for the investment of the monies of the System. The investment managers shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Board of Trustees. Subject to the overall investment guidelines set by the Board of Trustees, the investment managers shall have full discretion in the management of those monies of the System allocated to the investment managers. The Board of Trustees shall manage those monies not specifically allocated to the investment managers. The monies of the System allocated to the investment managers shall be actively managed by the investment managers, which may include selling investments and realizing losses if such action is considered advantageous to longer term return maximization. Because of the total return objective, no distinction shall be made for management and performance evaluation purposes between realized and unrealized capital gains and losses.

E. Funds and revenues for investment by the investment managers or the Board of Trustees shall be placed with a custodian selected by the Board of Trustees. The custodian shall be a bank or trust company offering pension fund master trustee and master custodial services. The custodian shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Board of Trustees. In compliance with the investment policy guidelines of the Board of Trustees, the custodian bank or trust company shall be contractually responsible for ensuring that all monies of the System are invested in income-producing investment vehicles at all times. If a custodian bank or trust company has not received direction from the investment managers of the System as to the investment of the monies of the System in specific investment vehicles, the custodian bank or trust company shall be contractually responsible to the Board of Trustees for investing the monies in appropriately collateralized short-term interest-bearing investment vehicles.

F. By November 1, 1988, and prior to August 1 of each year thereafter, the Board of Trustees shall develop a written investment plan for the System.

G. The Board of Trustees shall compile a quarterly financial report of all the funds of the System on a fiscal year basis. The report shall be compiled pursuant to uniform reporting standards prescribed by the Oklahoma State Pension Commission for all state retirement systems. The report shall include several relevant measures of investment value, including acquisition cost and current fair market value with appropriate summaries of total holdings and returns. The report shall contain combined and individual rate of returns of the investment managers by category of investment, over periods of time. The Board of Trustees shall include in the quarterly reports all commissions, fees or payments for investment services performed on behalf of the Board. The report shall be distributed to the Governor, the Oklahoma State Pension Commission, the Legislative Service Bureau, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

H. After July 1 and before December 1 of each year, the Board of Trustees shall publish widely an annual report presented in simple and easily understood language pursuant to uniform reporting standards prescribed by the Oklahoma State Pension Commission for all state retirement systems. The report shall be submitted to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Oklahoma State Pension Commission and the members of the System. The annual report shall cover the operation of the System during the past fiscal year, including income, disbursements, and the financial condition of the System at the end of the fiscal year. The annual report shall also contain the information issued in the quarterly reports required pursuant to subsection G of this section as well as a summary of the results of the most recent actuarial valuation to include total assets, total liabilities, unfunded liability or over funded status, contributions and any other information deemed relevant by the Board of Trustees. The annual report shall be written in such a manner as to permit a readily understandable means for analyzing the financial condition and performance of the System for the fiscal year.

I. The Board of Trustees shall adopt a cost of living adjustment actuarial assumption in its annual actuarial valuation report. **(70-17-106.1)**

Note: Amended by SB 782, Sec. 6 of the 2011 Reg. Sess. Effective September 1, 2011.

Section 359. Fiduciary - Duties - Requirements - Restrictions.

A. A fiduciary with respect to the Teachers' Retirement System of Oklahoma shall not cause the System to engage in a transaction if the fiduciary knows or should know that such transaction constitutes a direct or indirect;

1. sale or exchange, or leasing of any property from the System to a party in interest for less than adequate consideration or from a party in interest to the System for more than adequate consideration;

2. lending of money or other extension of credit from the System to a party in interest without the receipt of adequate security and a reasonable rate of interest, or from a party in interest to the System with provision of excessive security or an unreasonably high rate of interest;

3. furnishing of goods, services or facilities from the System to a party in interest for less than adequate consideration, or from a party in interest to the System for more than adequate consideration; or

4. transfer to, or use by or for the benefit of, a party in interest of any assets of the System for less than adequate consideration.

B. A fiduciary with respect to the Teachers' Retirement System of Oklahoma shall not:

1. deal with the assets of the System in the fiduciary's own interest or for the fiduciary's own account;

2. in the fiduciary's individual or any other capacity act in any transaction involving the System on behalf of a party whose interests are adverse to the interests of the System or the interests of its participants or beneficiaries; or

3. receive any consideration for the fiduciary's own personal account from any party dealing with the System in connection with a transaction involving the assets of the System.

C. A fiduciary with respect to the Teachers' Retirement System of Oklahoma may:

1. invest all or part of the assets of the System in deposits which bear a reasonable interest rate in a bank or similar financial institution supervised by the United States or a state, if such bank or other institution is a fiduciary or such plan; or

2. provide any ancillary service by a bank or similar financial institution supervised by the United States or a state, if such bank or other institution is a fiduciary of such plan.

D. A person or a financial institution is a fiduciary with respect to the Teachers' Retirement System of Oklahoma to the extent that the person or the financial institution:

1. exercises any discretionary authority or discretionary control respecting management of the Teachers' Retirement System of Oklahoma or exercises any authority or control respecting management or disposition of the assets of the System;

2. renders investment advice for a fee or other compensation, direct or indirect, with respect to any monies or other property of the System, or has any authority or responsibility to do so; or

3. has any discretionary authority or discretionary responsibility in the administration of the System. **(70-17-106.2)**

Section 360. Teachers Retirement Fund.

A. All employee and employer contributions and dedicated revenues shall be deposited in the Oklahoma Teachers' Retirement Fund in the State Treasury. The Board of Trustees shall have the responsibility for the management of the Oklahoma Teachers' Retirement Fund, and may transfer monies used for investment purposes by the Teachers' Retirement System of Oklahoma from the Oklahoma Teachers' Retirement Fund in the State Treasury to the custodian bank or trust company of the System.

B. All benefits payable pursuant to the provisions of the Teachers' Retirement System of Oklahoma, refunds of contribution and overpayments, and all administrative expenses in connection with the System shall be paid from the Oklahoma Teachers' Retirement Fund upon warrants or vouchers signed by two persons designated by the Board of Trustees. All expenses of the administration of the Tax-Sheltered Annuity Fund shall be paid from the Oklahoma Teachers' Retirement Fund. The Board of Trustees may transfer monies from the custodian bank or trust company of the System to the Oklahoma Teachers' Retirement Fund in the State Treasury for the purposes specified in this subsection. **(70-17-106.3)**

Section 360.1. Appeal of Decision.

Any person aggrieved by any decision of the Board of Trustees may appeal from such decision by filing a petition in the Oklahoma County District Court within thirty (30) days from the date of such decision. All actions or proceedings directly or indirectly against the Teachers' Retirement System of Oklahoma shall be brought in Oklahoma County. **(70-17-106.4)**

Section 361. Investment of Funds.

The interest earned on the investments in the Teachers' Retirement System of Oklahoma shall be credited in the following manner:

1. money on deposit in the Teachers' Deposit Fund or Tax-Sheltered Annuity fund shall be credited with interest annually compounded;

2. there shall be deducted from the annual interest on investments an amount necessary for the amortization of bonds purchased and owned by the Teachers' Retirement System of Oklahoma;

3. there shall be deducted from the annual interest on investments an amount of money necessary for the operation of the Teachers' Retirement System of Oklahoma; and

4. any residue remaining in the Interest Fund after the requirements of paragraphs 1 through 3 of this section have been fully met shall be used for the purpose of paying retirement benefits to the retirees of the Teachers' Retirement System of Oklahoma and transferred to the Retirement Benefit Fund; the interest income shall be distributed to the various funds on June 30 each year. **(70-17-107)**

Section 362. Contributions of Teachers - Matching Funds.

A. Each local school district, or state college or university, or State Board of Education or State Board of Career and Technology Education, or other state agencies whose employees are members of the Teachers' Retirement System shall match on a pro rata basis, in accordance with subsection B of this section the contributions of members whose salaries are paid by federal funds or externally sponsored agreements such as grants, contracts and cooperative agreements. These funds shall be remitted at the same time as the regular contributions of members are remitted to the Teachers' Retirement System of Oklahoma and deposited in the Retirement Benefit Fund.

B. On an annual basis, the Board of Trustees shall set the contribution rate to be paid by contributing employers as provided in subsection A of this section. The contribution rate shall be determined using cost principles established by federal regulations and shall be consistent with policies, regulations and procedures that apply uniformly to both federally assisted and other activities, and be accorded consistent treatment through application of generally accepted accounting principles. The Board shall approve the contribution rate for each fiscal year ending June 30, no later than April 1 of the previous fiscal year.

C. All the assets of the retirement system shall be credited according to the purpose for which they are held to one of eight funds, namely: The Teachers' Savings Fund, the Retirement Benefit Fund, the Interest Fund, the Permanent Retirement Fund, the Expense Fund, the Suspense Fund, the Teachers' Deposit Fund, and the Retiree Medical Benefit Fund.

1. The Teachers' Savings Fund shall be a fund in which shall be accumulated the regular contributions from the compensation of members, including interest earnings prior to July 1, 1968. Contributions to and payments from the Teachers' Savings Fund shall be made as specifically provided in each plan available within the retirement system.

2. The deductions provided for in the plans within the retirement system shall be made notwithstanding that the minimum compensation provided for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein and payment of salary or compensation, less the deduction, shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment, except as to the benefits provided under this act. The employer shall certify to the Board of Trustees on each and every payroll, or in such other manner as the Board may prescribe, the amounts to be deducted, and each of the amounts shall be deducted, and when deducted shall be paid into the Teachers' Savings Fund, and shall be credited to the individual account of the member from whose compensation the deduction was made.

3. Following the termination of membership in the retirement system for any member who has been absent from service for five (5) years in any period of six (6) consecutive years, the Teachers' Savings Fund Account of such member shall be closed and the amount due the member as provided in Section 17-105 of this title shall be paid upon the filing of formal application. At the time such membership is terminated the amount due the member as provided in Section 17-105 of this title shall be transferred to the Suspense Fund.

4. Upon the retirement of a member, the balance of money he or she had in the Teachers' Savings Fund shall be transferred to the Retirement Benefit Fund.

5. Retirement Benefit Fund.

a. After August 2, 1969, there shall be transferred from the Teachers' Savings Fund for those members drawing retirement benefits from the Teachers' Retirement System of Oklahoma an amount necessary to provide the monthly annuity payments and pension payments as required in Section 17-107 of this title. In addition the fund shall consist of monies received from any state dedicated revenue, monies received from state appropriations, monies received from federal matching funds, and the residue of the interest on investments after the requirements of Section 17-107 of this title have been fully met. The Retirement Benefit Fund shall consist of an amount of money necessary for the making of retirement payments to retirees.

b. Should a member have deposits in the Teachers' Deposit Fund or the Tax-Sheltered Annuity Fund and wish to receive monthly retirement benefits on such deposits, the actuarial equivalent of a two-year period and each succeeding fiscal year thereafter shall be transferred to the Retirement Benefit Fund. The member may choose any of the plans available in the Teachers' Retirement Act as a method of receiving monthly retirement benefits on the money he has on deposit in the Teachers' Deposit Fund or the Tax-Sheltered Annuity Fund. The monthly retirement benefits paid from the Teachers' Deposit Fund or the Tax-Sheltered Annuity Fund shall be in addition to the regular retirement benefits and the money transferred from the Teachers' Deposit Fund or Tax-Sheltered Annuity Fund shall not be matched by the State of Oklahoma.

c. From the Retirement Benefit Fund shall be paid all monthly retirement benefits.

d. At the death of a retired member who has retired under the Maximum Plan of Retirement, Option 1 or Option 4, the balance of money the member has in the Teachers' Savings Fund shall be transferred to the Retirement Benefit Fund and the amount due the beneficiary or his or her estate under Option 1 or Option 4 shall be paid from the Retirement Benefit Fund.

e. At the death of both a retired member and the retired member's spouse, who had retired under Option 2 or 3, any balance in the Teachers' Savings Fund shall be transferred from the Teachers' Savings Fund to the Retirement Benefit Fund.

f. At the death of a retired member who had retired under Option 5, the balance of any monies the member had in the Teachers' Savings Fund shall be transferred to the Retirement Benefit Fund for the purpose of making a lump-sum settlement to the beneficiary or his estate. Providing that if the surviving spouse elects to receive the balance under the Maximum Plan of Retirement or Option 1 the member's money, if any, on

a monthly basis, constituting actuarial equivalent of two (2) years' payments, and each year thereafter the annual actuarial equivalent, shall be transferred from the Teachers' Savings Fund for the purpose of paying monthly retirement benefits to the spouse under this option.

6. The Interest Fund is hereby created to facilitate the crediting of interest to the various other funds to which interest is to be credited. All income, interest and dividends derived from the deposits and investments authorized by this act shall be paid into the Interest Fund. On June 30, each year, interest shall be transferred to the other funds as herein provided.

7. The Permanent Retirement Fund shall consist of the accumulated gifts, awards, and bequests made to the retirement system, and transfers from the Suspense Fund, the principal of which is hereby held and dedicated as a perpetual endowment of the retirement system and shall not be diverted or appropriated to any other cause or purpose unless specifically provided for in such gifts, awards or bequests.

8. The Expense Fund shall be the fund from which the expense of administration and maintenance of the retirement system shall be paid. The Board of Trustees shall cause to be prepared and adopt annually an itemized budget showing the amount required to defray the expenses for the ensuing fiscal year.

Transfers to and payments from this fund shall be made as follows: first, from the Interest Fund; second, from any dedicated revenue; and, third, from appropriation by the Oklahoma Legislature.

All monies for the operation of the Teachers' Retirement System of Oklahoma shall be paid from the Expense Fund upon the approval by the Board of Trustees and the checks signed by two people designated to sign such checks by the Board of Trustees of the Teachers' Retirement System of Oklahoma.

9. The Suspense Fund shall be comprised of amounts transferred to the fund as provided in this section and Section 17-105 of this title and obligations of the retirement system to any member or person which cannot be legally discharged.

10. Teachers' Deposit Fund.

Any member may request, prior to a pay period, that his or her employer make additional deposits for him or her, for tax-sheltered annuity purposes. However, the amount deposited shall not exceed the limits as defined in Section 402(g) and Section 415 of the Internal Revenue Code of 1986, as amended, and applicable federal regulations. All such deposits shall be credited to the member's account in the Teachers' Deposit Fund for the purchase of a tax-sheltered annuity. The amount thus accumulated, with earnings, shall be used upon the member's retirement, separation from service, death or disability to purchase an annuity in addition to his or her regular service retirement allowance. The amount a member accumulates in the Teachers' Deposit Fund, not including interest, may be used to pay distributions in the case of hardship as provided in Section 403(b)(11) of the Internal Revenue Code of 1986, as amended, and applicable federal regulations.

11. Collection of Contributions.

The collection of members' contributions shall be as follows:

(1) Each employer shall cause to be deducted on each and every payroll or claim of a member for each and every payroll claim period subsequent to the date of establishment of the retirement system the contribution payable by such member as provided in this act. With each and every payroll or claim the employer shall deliver to the treasurer of the employer warrants issued to the employees as shown to be due by the payroll or claim, together with a warrant or warrants in favor of the Teachers' Retirement System as shown by the payroll or claim.

(2) The treasurer or disbursing officer upon delivery of the warrants and a true copy of the payroll or claims as provided above shall register the warrants as provided for the registration of other school warrants, and shall deliver to the employer warrants issued in favor of the employees, and shall deliver warrants issued in favor of the Teachers' Retirement System and the copy of the payroll or claims to the school district superintendent as designated by the Board of Trustees. For the purpose of collecting contributions of teachers in the public schools, the superintendent of a school district is hereby designated to receive the Teachers' Retirement warrants from the treasurer or proper disbursing

officer of the several school districts for the purpose of transmitting such warrants and payroll or claims to the Executive Director of the Teachers' Retirement System of the State of Oklahoma. Any college or university or other educational institution or agency operated in whole or in part by the state shall have the amount retained or deducted from the funds regularly appropriated by the state for the current maintenance for such educational departments and institutions.

(3) For the purpose of enabling the collection of the contributions of the members of the retirement system to be made as simple as possible, the Board of Trustees shall require the secretary or other officer of each employer-board or agency, within thirty (30) days after the beginning of each school year, to make a list of all teachers in its employ who are members of the retirement system, certify to the correctness of this list, and file the same with the Executive Director of the Board of Trustees of the Teachers' Retirement System. If additions to or deductions from this list should be made during the year such additions or deductions shall likewise be certified to the Board of Trustees of the Teachers' Retirement System.

(4) The State Treasurer shall furnish annually to the Board of Trustees a sworn statement of the amount of the funds in his or her custody belonging to the retirement system. The records of the Board of Trustees shall be open to public inspection and any member of the retirement system shall be furnished with a statement of the amount of the credit to his or her individual account upon written request by such member, provided the Board of Trustees shall not be required to answer more than one such request of a member in any one (1) year.

(5) Failure of any superintendent, officer, or other person to discharge the duties imposed upon him or her by this act shall render him or her or his or her bondsman liable for any loss occasioned thereby to the Teachers' Retirement System or the employees of the school district, or both.

(6) On a showing by the Teachers' Retirement System that a warrant, voucher or check issued to it has, for any reason, been lost or never received, after ninety (90) days from the date of issue or from transmittal for payment, it shall be the duty of the issuing authority forthwith, without any indemnifying bond or other requirements, to issue a duplicate thereof in lieu of that which was lost, to the Teachers' Retirement System; and the Teachers' Retirement System shall save harmless any school district or agency of state government making payment under the provisions hereof to the State Teachers' Retirement System if the original warrant, voucher or check is later presented for payment and same is paid after a duplicate warrant, voucher or check has been issued and paid to the Teachers' Retirement System, and any loss sustained therefrom shall be charged to the Interest Fund.

12. Rollover Contributions and Direct Trustee-to-Trustee Transfers from Other Plans.

Any member may purchase credit for service, to the extent specified in this title, with rollovers from an eligible retirement plan as defined by the Internal Revenue Code of 1986, as amended from time to time. A member may also purchase permissive service credit, as defined by Code Section 415(n)(3)(A), with a direct trustee-to-trustee transfer from a governmental Code Section 403(b) plan or governmental Code Section 457(b) plan. All rollovers and direct trustee-to-trustee transfers shall be allowed to the extent permitted by federal law. Rollovers or direct transfers in excess of the amount necessary to purchase such service credit shall not be allowed.

13. Retiree Medical Benefit Fund.

The Retiree Medical Benefit Fund shall be maintained as a subaccount under the Retirement Benefit Fund. The Retiree Medical Benefit Fund is composed of all assets contributed to this subaccount to pay the retirement system's portion of the monthly retiree health insurance benefits described in Section 1316.3 of Title 74 of the Oklahoma Statutes. All allocated assets and the earnings thereon in the Retiree Medical Benefit Fund shall be held for the exclusive purpose of providing retiree medical benefits pursuant to Section 1316.3 of Title 74 of the Oklahoma Statutes. The Retiree Medical Benefit Fund shall be administered in accordance with the requirements under Section 401(h) of the Internal Revenue Code of 1986, as amended from time to time. An amount necessary to pay the health insurance premiums for retired members as provided by Section 1316.3 of Title 74 of the Oklahoma Statutes shall be deposited each month into the Retiree Medical Benefit Fund. **(70-17-108)**

Note: Amended by HB 1002, Sec. 1 of the 2011 Reg. Sess.

If employer elects to pay the contributions of its employees who are members of the Teachers' Retirement System, it is still obligated to match those contributions it makes on behalf of members whose salaries are paid by federally oriented funds. *June 15, 1979 (AG Op. No. 79-169)*

Section 363. School District May Pay Member's Contribution.

A. 1. Except as provided in paragraph 2 of this subsection, the employer of any member of the Teachers' Retirement System of Oklahoma shall make the following contributions to the System:

a. beginning July 1, 1998, through June 30, 1999, eleven and one-half percent (11 ½%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member,

b. beginning July 1, 1999, through June 30, 2000, four and eight-tenths percent (4.8%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member,

c. beginning July 1, 2000, through June 30, 2001, five and eight-tenths percent (5.8%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member,

d. beginning July 1, 2001, through June 30, 2002, six and eight-tenths percent (6.8%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member,

e. beginning July 1, 2002, through December 31, 2006, seven and five-hundredths percent (7.05%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member,

f. beginning January 1, 2007, through June 30, 2007, seven and six-tenths percent (7.6%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member,

g. beginning July 1, 2007, through December 31, 2007, seven and eighty-five hundredths percent (7.85%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member,

h. beginning January 1, 2008, through June 30, 2008, eight and thirty-five hundredths percent (8.35%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member,

i. beginning July 1, 2008, through December 31, 2008, eight and five-tenths percent (8.5%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member,

j. beginning January 1, 2009, through December 31, 2009, nine percent (9%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member,

k. beginning January 1, 2010, through June 30, 2010, nine and five-tenths percent (9.5%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member, and

l. beginning July 1, 2010, through June 30, 2011, and for each fiscal year thereafter, nine and five-tenths percent (9.5%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member.

The employer contribution rate increase that would otherwise be effective, as provided by subparagraphs f, g, h, I, j, k and l of this paragraph, shall not become effective as law unless funding levels to each of the affected participating employers within the System are increased so that the additional employer contribution obligation is funded through an appropriation or transfer of monies instead of requiring the additional employer contribution to be paid for from existing budgetary resources of such participating employers. The participating employers shall use any monies specifically made available for purposes of making employer contributions for such purpose and to the extent of the funds made available for that purpose.

2. a. Beginning January 1, 2007, through December 31, 2007, a participating employer that employs an employee of a comprehensive university or a regional institution offering a four-year degree program as designated or authorized by the Oklahoma State Regents for Higher Education shall make contributions to the System with respect to

such employees at the rate of seven and five-hundredths percent (7.05%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level.

b. Beginning January 1, 2008, through December 31, 2008, a participating employer that employs an employee of a comprehensive university or a regional institution offering a four-year degree program as designated or authorized by the Oklahoma State Regents for Higher Education shall make contributions to the System with respect to such employees at the rate of seven and fifty-five hundredths percent (7.55%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member.

c. Beginning January 1, 2009, through December 31, 2009, a participating employer that employs an employee of a comprehensive university or a regional institution offering a four-year degree program as designated or authorized by the Oklahoma State Regents for Higher Education shall make contributions to the System with respect to such employees at the rate of eight and five hundredths percent (8.05%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member.

d. Beginning January 1, 2010, through June 30, 2010, a participating employer that employs an employee of a comprehensive university or a regional institution offering a four-year degree program as designated or authorized by the Oklahoma State Regents for Higher Education shall make contributions to the System with respect to such employees at the rate of eight and fifty-five hundredths percent (8.55%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member.

e. Beginning July 1, 2010, through June 30, 2011, and for each fiscal year thereafter, a participating employer that employs an employee of a comprehensive university or a regional institution offering a four-year degree program as designated or authorized by the Oklahoma State Regents for Higher Education shall make contributions to the System with respect to such employees at the rate of eight and fifty-five hundredths percent (8.55%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member.

The employer contribution rate increase that would otherwise be effective as provided by subparagraphs b, c, d and e of this paragraph shall not become effective as law unless funding levels are increased so that the additional employer contribution obligation is funded through such an appropriation or transfer of monies instead of requiring the additional employer contribution to be paid for from existing budgetary resources of such participating employers. The participating employers shall use any monies specifically made available for purposes of making employer contributions for such purpose and to the extent of the funds made available for that purpose.

3. Any employer contribution paid to the System pursuant to this subsection shall not be considered as salary, fringe benefit, or total compensation due to members for the purpose of meeting any legislative or contractual obligation of the employer.

B. For entities or institutions within The Oklahoma State System of Higher Education, the contributions to the System shall be made on regular annual compensation of a member who is an employee of such entity or institution not to exceed the maximum compensation level in effect for the member as prescribed by law.

C. Employers paying contributions to the System pursuant to subsection A or B of this section shall receive credit for that portion of the gross production tax on natural gas and/or casinghead gas apportioned to the System pursuant to subsection 2 of Section 1004 of Title 68 of the Oklahoma Statutes in meeting the total required employer contribution. On an annual basis, the Board of Trustees of the Teachers' Retirement System of Oklahoma shall estimate the net additional cost required to be paid by the contributing employers in order to meet the total employer contribution as provided in subsection A or B of this section. The Board of Trustees shall approve the amount of the additional contribution required to be paid by contributing employers as a percentage of total member salaries and fringe benefits for each fiscal year ending June 30, no later than April 1 of the previous fiscal year. In no event shall the additional contribution required to be paid by the contributing employer under this subsection be less than the contribution required under this subsection in the prior year. In the event actual contributions do not equal the required total contribution as provided in subsection A or B of this section, the net difference between the actual contributions and the required total contributions shall be determined and shall be included in the amount of the additional contribution required to be paid by contributing employers for the next fiscal year. All contributing employers shall pay the same percentage of total member salaries and fringe benefits during each fiscal year. The provisions of this subsection shall terminate June 30, 1999.

D. Any school district, state college or university, State Board of Education, State Board of Career and Technology Education, or other state agency may, for and on behalf of any member of the System, pay all or any portion of the contribution required by Section 17-108 of this title. Provided, the contribution so paid by any school district, state college or university, State Board of Education, State Board of Career and Technology Education, or other state agency shall be and remain subject to the withdrawal provisions set forth under the System. Wherever the term "contribution" is used, it shall be deemed to include contributions paid for and on behalf of a member by a school district, state college or university, State Board of Education, State Board of Career and Technology Education, or other state agency.

E. All participating employers shall provide a complete record of the total compensation paid to each employee, including any person who is a retired member of the System, whether or not employer and employee contributions are made with respect to such compensation. The employer shall provide the report required by this subsection on a monthly basis on a form or using such method as the Teachers' Retirement System of Oklahoma may require. **(70-17-108.1)**

Section 363.1. Credit for "Picked Up" Contributions.

A. Beginning July 1, 1998, and for each plan year thereafter, a teacher employed by any school district or employed by a technology center school district who qualifies for a minimum salary pursuant to the schedule contained in Section 18-114.7 of this title, shall have credited against the employee contribution amount, as applicable to the amount of compensation required to be paid to the teacher as a minimum salary pursuant to Section 18-114.7 of this title, an annual amount based upon qualifying years of service as follows:

YEARS OF SERVICE	CREDIT AMOUNT
0	$60.15
1	$103.41
2	$145.65
3	$188.15
4	$233.33
5	$278.76
6	$325.26
7	$372.82
8	$421.44
9	$471.12
10	$521.87
11	$573.67
12	$626.54
13	$680.48
14	$735.47
15	$791.53
16	$848.65
17	$906.83
18	$966.07
19	$1,026.38
20	$1,087.75
21	$1,150.18
22	$1,213.68
23	$1,278.23
24	$1,343.85

25 or more $1,410.53

B. The state shall pick up and pay the annual amount prescribed by subsection A of this section, based upon the conditions prescribed by subsection A this section, to the Teachers' Retirement System. The annual amount prescribed by subsection A of this section shall be divided into monthly amounts as may be required in order to give full effect to the credit amount without the necessity of dividing the annual credit amount into twelve (12) equal installments.

C. If an eligible teacher terminates service prior to June 30 of any applicable plan year, the amounts prescribed by subsection A of this section, and transferred to the Teachers' Retirement System from the State Board of Education and the State Board of Career and Technology Education shall be retained by the Teachers' Retirement System of Oklahoma and treated as an actuarial gain of the System.

D. If an employing school district has contractually committed to make payment of the employee contributions required by Section 17-116.2 of this title for a member who is eligible for the credit amount prescribed by subsection A of this section for the fiscal year, using funds available to the district and not by effecting the employee contribution through a deduction from the member's gross salary, the district shall pay additional compensation to each of its eligible teachers in an amount equal to the amount prescribed by subsection A of this section based upon the number of years of teaching experience of the eligible member.

E. If an eligible member is hired by a school district or a technology center school district and receives compensation for less than one hundred eighty (180) days of service, the district shall determine a pro rata amount of the annual credit amount and shall pay additional compensation to the member equal to the pro rata amount for each month during which the member is employed. The monthly credit amount for such member shall be added to the member's compensation beginning with the first full month during which the member is employed by the district.

F. The amount required to be added to the compensation of the eligible member pursuant to subsection D of this section shall be subject to any applicable federal or state taxes upon the additional income.

G. The amount required to be added to the compensation of the eligible member pursuant to subsection D of this section shall not be treated as regular annual compensation for purposes of Section 17-116.2 of this title or as salary or fringe benefits for purposes of determining the minimum salary pursuant to the requirements of Section 18-114.7 of this title or for purposes of meeting the requirements of any locally adopted salary schedule.

H. The employing district shall prepare its payroll records to reflect that the total employee contribution amount, for the salary not in excess of the applicable minimum salary amount, has been paid pursuant to a combination of the payment from the funds of the employing district and the amount credited to the employee contribution account of the member pursuant to subsection A of this section.

I. If an employing school district has contractually committed to deduct employee contributions required by Section 17-116.2 of this title by effecting the employee contribution through a deduction from the member's gross salary, the district shall decrease the amount of the payroll deduction for such employee contribution by the amount as prescribed in subsection A of this section, based upon the number of years of teaching experience of the member. The amount required to be subtracted from the amount by which the employee's gross salary would otherwise be reduced pursuant to this subsection shall be subject to any applicable federal or state taxes. The employing district shall prepare its payroll records to reflect that the total employee contribution amount, for the salary not in excess of the applicable minimum salary amount, has been paid pursuant to a combination of the deduction from the member's salary and the amount credited to the employee contribution account of the member pursuant to subsection A of this section. **(70-17-108.2)**

The State Board of Education and the State Board of Career and Technology Education have a statutory obligation to transfer appropriated money every year, as prescribed by the Teachers' Retirement System for the funding of the Contributions Credit. The State Board of Education and State Board of Career and Technology Education have a statutory obligation to transfer appropriated money every year to fund the Contributions Credit from the sums apprropriated, regardless of whether the Legislature provides a line item directing such allocation or whether it defers such discretion to the State Board of Education. *(AG Op. NO. 2010-14)*

Section 364. Exemption from Taxes and Legal Process.

A. Except as otherwise provided by this section, the right of a person to an annuity or a retirement allowance, to the return of contributions, annuity, or retirement allowance itself, any optional benefit, or any other right accrued or accruing to any person under the provisions of this act, and the monies in the various funds created by this act, are hereby exempt from levy and sale, garnishment, attachment or any other process whatsoever, and shall be unassignable except as in this act specifically provided. Notwithstanding the foregoing, the Board of Trustees may approve any offset of a member's benefit to pay a judgment or settlement against a member for a crime involving the System, for a breach of the member's fiduciary duty to the System, or for funds or monies incorrectly paid to a member or a beneficiary by mistake, provided such offset is in accordance with the requirements of Section 401 (a) (13) of the Internal Revenue Code of 1986.

B. 1. The provisions of subsection A of this section shall not apply to a qualified domestic order as provided pursuant to this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relations laws of the State of Oklahoma which relates to the provision of martial property rights to a spouse or former spouse of a member or provision of support for a minor child or children and which creates or recognizes the existence of the right of an alternate payee, or assigns to an alternate payee the right, to receive a portion of the benefits payable with respect to a member of the Retirement System.

3. For purposes of the payment of marital property, to qualify as an alternate payee, a spouse or former spouse must have been married to the related member for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

4. A qualified domestic order is valid and binding on the Board of Trustees and the related member only if it meets the requirements of this subsection.

5. A qualified domestic order shall clearly specify:

a. the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order,

b. the amount or percentage of the member's benefits to be paid by the Retirement System to the alternate payee,

c. the number of payments or period to which such order applies,

d. the characterization of the benefit as to marital property rights or child support, and

e. each plan to which such order applies.

6. A qualified domestic order meets the requirements of this subsection only if such order:

a. does not require the Retirement System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the Retirement System,

b. does not require the Retirement System to provide increased benefits, and

c. does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the Retirement System as a valid order prior to the effective date of this act.

7. A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date or withdrawal of the related member.

8. The obligation of the Retirement System to pay an alternate payee pursuant to a qualified domestic order shall cease upon the death of the related member.

9. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A. Section 1001, et seq., as amended from time to time, or rules and regulations promulgated thereunder, and court cases interpreting said act.

10. The Board of Trustees of the Teachers' Retirement System of Oklahoma shall promulgate such rules as are necessary to implement the provisions of this subsection.

11. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order must fully comply with all provisions of the rules promulgated by the Board of Trustees pursuant to this subsection in order to continue receiving his or her benefit. **(70-17-109)**

> Person receiving teachers' annuity or retirement allowance from Teachers' Retirement System is not exempt from paying municipal and state sales tax. *April 4, 1980 (AG Op. No. 80-37)*

Section 365. Retirement Records - Confidentiality.

All information, documents and copies thereof contained in a member's retirement file shall be given confidential treatment and shall not be made public by the System without the prior written consent of the member to which it pertains, but shall be subject to subpoena or court order with the exception of the member's name, age, amount of contributions paid in, benefits being paid, amount of credited service and any documents verifying credits, service, or benefits which shall not be subject to the confidentiality provisions of this section. **(70-17-109.1)**

Section 366. False Statements - Correction of Errors.

Any person who shall knowingly make any false statement or shall falsify or permit to be falsified, any record or records of this retirement system in any attempt to defraud such system as a result of such act shall be guilty of a felony. Should any charge or error in the records result in any member or beneficiary receiving from the retirement system more or less than he would have been entitled to receive had the records been correct the Board of Trustees shall correct such error, and so far as practicable, shall adjust the payment in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid, and to take from the Interest Fund sufficient to reimburse the Fund where an overpayment had already been made, and any such overpayment recovered from the member shall be placed in the Interest Fund. **(70-17-110)**

> Teachers' Retirement System is not statutorily authorized to pay interest on the return of contributions accepted in error. *June 7, 1991 (AG Op. No. 91-8)*

> Teachers' Retirement System must accept a request for membership by an individual required to be a member as a classified employee but for whom no deductions or employer contributions have been made, upon tender by applicant of all employee contributions for the omitted years. *December 31, 1979 (AG Op. No. 79-264)*

Section 367. State Treasurer - Bonds.

The Treasurer of the State of Oklahoma shall upon becoming custodian of the Teachers' Retirement Fund, give a bond in the sum of Fifty Thousand Dollars ($50,000.00); the Executive Director shall give bond in the sum of Twenty-five Thousand Dollars ($25,000.00); and the Board of Trustees shall require any other employees and members of the Board of Trustees to give bond in such amounts as the Board may deem necessary, conditioned that said bonded persons will faithfully execute the duties of the respective offices. All bonds shall be made with a good and solvent surety company, authorized to do business in the State of Oklahoma; said bonds shall be made payable to the Board of Trustees and shall be approved by it and the Attorney General of Oklahoma. All expense necessary and incident to the execution of such bonds, including premiums thereon, shall be paid by the Board of Trustees from the Expense Fund. **(70-17-111)**

Section 368. Audit of Funds.

It shall be the duty of the State Auditor and Inspector to audit annually the funds, accounts and assets of the Teachers' Retirement System. **(70-17-112)**

Section 369. Increments - Military Service.

In determining annual increments for teacher salaries and in computing Foundation Aid, time spent in military service during a period of national emergency shall be counted not to exceed five (5) years prior to the current year. No more than five (5) years of such military service shall be used in determining eligibility or benefits under the Teachers' Retirement System. **(70-17-113)**

> Under USERRA, pension systems must treat employees who take a break from employment to serve in the military the same as employees who did not interrupt their employment to serve and thereby ensures employees with interim military service did not lose otherwise accrued retirement benefits. USERRA does not mandate pension systems credit preemployment military service towards retirement benefits. *Felkins v. Oklahoma Firefighters Pension and Retirement System*, 2005 OK CIV APP

Section 370. Repealed.

Section 371. Personnel.

A. The executive director, assistant executive director and secretary-treasurer of the system shall be unclassified positions. Twenty-two (22) full-time-equivalent employees of the system shall be unclassified administrative assistants.

B. Beginning on the effective date of this act, all offices, positions, and personnel of the Teachers' Retirement System of Oklahoma shall be in the unclassified service, except as provided in Section 840-4.2 of Title 74 of the Oklahoma Statutes. All future appointees to positions in the Teachers' Retirement System of Oklahoma shall be in the unclassified service. **(70-17-114.2)**

Note: Amended by SB 553, Sec. 43 & 44 of the 2011 Reg. Sess.

Section 372. Minimum Benefit.

Any member of the classified personnel eligible for retirement under this act who has taught in Oklahoma schools for at least twenty (20) years and who retires before August 2, 1969, shall be paid not less than One Hundred and Twenty-five Dollars ($125.00) per month. **(70-17-116)**

Section 373. Increase in Retirement Benefits.

A. Every annuitant receiving retirement benefits from the system as of June 30, 1986, shall receive, on July 1, 1986, a six percent (6%) increase in retirement benefits.

B. Any member who retires during the period beginning July 1, 1986, through October 1, 1986, shall receive a six percent (6%) increase in their monthly benefit as computed pursuant to the provisions of Sections 17-101 through 17-116 of this title and Section 17-116.2 of this title. **(70-17-116.1)**

Section 374. Retirement Allowance - Contributions - Salary Deductions. (Version 1)

A. 1. Beginning July 1, 1987, and prior to July 1, 1995, a member who retires on or after the member's normal retirement age or whose retirement is because of disability shall receive an annual allowance for life, payable monthly, in an amount equal to two percent (2%) of the member's highest three-year average salary upon which member contributions were made, multiplied by the number of the member's years of creditable service.

A classified member who retired prior to July 1, 1986, shall have his retirement allowance calculated on a minimum average salary of Eleven Thousand Five Hundred Dollars ($11,500.00) or on his current minimum average salary plus Two Thousand Dollars ($2,000.00), whichever is greater. Beginning July 1, 1994, a classified member who retired prior to July 1, 1993, shall have the member's retirement allowance calculated on the member's current minimum average salary plus Five Hundred Fifty Dollars ($550.00). An unclassified member who retired prior to July 1, 1986, shall have his retirement allowance calculated on a minimum average salary of Nine Thousand Five Hundred Dollars ($9,500.00) or on his current minimum average salary plus One Thousand Dollars ($1,000.00), whichever is greater. Beginning July 1, 1994, an unclassified member who retired prior to July 1, 1993, shall have the member's retirement allowance calculated on the member's current minimum average salary plus Two Hundred Seventy-five Dollars ($275.00). Those

individuals receiving benefits pursuant to subsection (3) of Section 17-105 of this title whose benefits commenced prior to July 1, 1993, shall receive an increase in benefits of two and one-half percent (2 1/2%). No retirement benefit payments shall be made retroactively.

Except for those members retiring because of a disability, the retirement allowance:

a. for those members whose first creditable service with the retirement system occurs prior to November 1, 2011, shall be subject to adjustment for those members retiring before normal retirement age in accordance with the actuarial equivalent factors adopted by the Board of Trustees, and

b. for those members whose first creditable service with the retirement system occurs on or after November 1, 2011, shall be adjusted according to the following schedule:

Age	Percentage of Normal Retirement Benefit
65	100.00%
64	93.00%
63	86.00%
62	80.00%
61	73.00%
60	65.00%

2. Beginning July 1, 1995, a member, who has no service performed on or after July 1, 1995, for an entity or institution within The Oklahoma State System of Higher Education, who retires on or after the member's normal retirement age or whose retirement is because of disability shall receive an annual allowance for life, payable monthly as follows:

a. if the member becomes a member after June 30, 1995, and was not eligible to become a member prior to July 1, 1995, in an amount equal to two percent (2%) of the member's average salary upon which member contributions were made, multiplied by the number of the member's years of creditable service, or

b. if the member became a member or is eligible to become a member prior to July 1, 1995, and elected to have a maximum compensation level in excess of Twenty-five Thousand Dollars ($25,000.00) pursuant to paragraph 1 of subsection C of this section or pursuant to subsection E of this section, or if the member's salary has never exceeded Twenty-five Thousand Dollars ($25,000.00) prior to July 1, 1995, in an amount equal to:

(1) two percent (2%) of the member's average salary upon which member contributions were made not to exceed Forty Thousand Dollars ($40,000.00), multiplied by the number of the member's years of credited service authorized and performed prior to July 1, 1995, plus any years of prior service authorized under this title, plus

(2) two percent (2%) of the member's average salary upon which member contributions were made, multiplied by the number of the member's years of credited service authorized and performed after June 30, 1995, or

c. if the member became a member or is eligible to become a member prior to July 1, 1995, and was eligible to elect to have a maximum compensation level in excess of Twenty-five Thousand Dollars ($25,000.00) and did not elect or elected not to have a maximum compensation level of Forty Thousand Dollars ($40,000.00) pursuant to paragraph 1 of subsection C of this section or pursuant to subsection E of this section, in an amount equal to:

(1) two percent (2%) of the member's average salary upon which member contributions were made not to exceed Twenty-five Thousand Dollars ($25,000.00), multiplied by the number of the member's years of credited service authorized and performed prior to July 1, 1995, plus any years of prior service authorized under this title, plus

(2) two percent (2%) of the member's average salary upon which member contributions were made, multiplied by the number of the member's years of credited service authorized and performed after June 30, 1995.

B. Except as otherwise provided for in this section, the amount contributed by each member to the retirement system shall be:

1. Beginning July 1, 1992, through June 30, 1996, six percent (6%) of the regular annual compensation of such member not in excess of Twenty-five Thousand Dollars ($25,000.00) and beginning July 1, 1995, through June 30, 1996, six percent (6%) of the maximum compensation level; and

2. Beginning July 1, 1996, through June 30, 1997, six and one-half percent (6 1/2%) of the regular annual compensation of members, who are not employed by an entity or institution within The Oklahoma State System of Higher Education not in excess of Twenty-five Thousand Dollars ($25,000.00) and beginning July 1, 1996, through June 30, 1997, six and one-half percent (6 1/2%) of the regular annual compensation of members, who are employed by an entity or institution within The Oklahoma State System of Higher Education, not in excess of Twenty-five Thousand Dollars ($25,000.00);

3. Beginning July 1, 1997, seven percent (7%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member; and

4. All public schools in this state shall treat the employee contributions as being picked-up under the provisions of Section 414 (h) (2) of the Internal Revenue Code of 1986 in determining tax treatment.

C. 1. Prior to July 1, 1995, an active member of the System may elect to have a maximum compensation level of Forty Thousand Dollars ($40,000.00). Such an election shall be made in writing and filed with the System. Members whose salaries are in excess of Twenty-five Thousand Dollars ($25,000.00) on the effective date of this act shall file the election with the System prior to January 1, 1988. Members whose salaries exceed Twenty-five Thousand Dollars ($25,000.00) after the effective date of this act shall file the election when the salary exceeds Twenty-five Thousand Dollars ($25,000.00). If a member makes such an election, the member shall contribute the following amounts:

a. beginning July 1, 1992, through June 30, 1993, eleven percent (11%) of the regular annual compensation of such member that is in excess of Twenty-five Thousand Dollars ($25,000.00) and is not in excess of Forty Thousand Dollars ($40,000.00),

b. beginning July 1, 1993, through June 30, 1994, nine percent (9%) of the regular annual compensation of such member that is in excess of Twenty-five Thousand Dollars ($25,000.00) and is not in excess of Forty Thousand Dollars ($40,000.00), and

c. beginning July 1, 1994, through June 30, 1995, eight percent (8%) of the regular annual compensation of such member that is in excess of Twenty-five Thousand Dollars ($25,000.00) and is not in excess of Forty Thousand Dollars ($40,000.00). Except as provided in subsection E of this section, any such election shall be irrevocable.

2. After June 30, 1995, in addition to the amount contributed by each member to the retirement system pursuant to subsection B of this section, the total amount contributed by each member to the retirement system shall include, beginning July 1, 1995, through June 30, 1997, seven percent (7%) of the regular annual compensation of each member, who is not employed by an entity or institution within The Oklahoma State System of Higher Education, that is in excess of Twenty-five Thousand Dollars ($25,000.00) and beginning July 1, 1996, through June 30, 1997, seven percent (7%) of the regular annual compensation of each member who is employed by an entity or institution within The Oklahoma State System of Higher Education in excess of Twenty-five Thousand Dollars ($25,000.00), but not in excess of any applicable maximum compensation level of the member.

D. For purposes of Section 17-101 et seq. of this title, regular annual compensation shall include:

1. Salary which accrues on a regular basis in proportion to the service performed, including payments for staff development;

2. Amounts that would otherwise qualify as salary under paragraph 1 of this subsection but are not received directly by the member pursuant to a good faith, voluntary written salary reduction agreement in order to finance payments to a deferred compensation or tax-sheltered annuity program or to finance benefit options under a cafeteria plan qualifying under the United States Internal Revenue Code, 26 U.S.C., Section 101 et seq.; and

3. Group health and disability insurance, group term life insurance, annuities and pension plans, provided on a periodic basis to all qualified employees of the employer, which qualify as fringe benefits under the United States Internal Revenue Code.

4. Excluded from regular annual compensation are expense reimbursement payments, office, vehicle, housing or other maintenance allowances, the flexible benefit allowance provided pursuant to Section 26-105 of this title, payment for unused vacation and sick leave, any payment made for reason of termination or retirement not specifically provided for in paragraphs 1 through 3 of this subsection, maintenance or other nonmonetary compensation, payment received as an independent contractor or consultant, pursuant to a lawful contract which complies with the requirements of subsection B of Section 6-101.2 of this title, any benefit payments not made pursuant to a valid employment agreement, or any compensation not described in paragraphs 1 through 3 of this subsection.

E. 1. Any member who was a contributing member of the Retirement System between July 1, 1987, and June 30, 1995, who at the time the member was eligible to make an election to increase the maximum compensation level of the member, failed to make an election or chose not to increase the maximum compensation level of the member to Forty Thousand Dollars ($40,000.00), may elect to make back contributions to the Retirement System. The member shall complete a new election form and file with the Board of Trustees, the form and a payment equaling the difference between the amount contributed at the twenty-five-thousand-dollar level and the appropriate contribution on compensation in excess of Twenty-five Thousand Dollars ($25,000.00) up to a maximum of Forty Thousand Dollars ($40,000.00) shall be made prior to the official retirement date of the member. The required payment shall include any contribution required by the employing school district, and shall include interest compounded annually at ten percent (10%) per annum of both employer and employee contributions.

2. Any changes made pursuant to this subsection shall be irrevocable.

F. 1. An individual who withdrew from the Teachers' Retirement System and whose salary was in excess of Seven Thousand Eight Hundred Dollars ($7,800.00) and had elected to contribute only on Seven Thousand Eight Hundred Dollars ($7,800.00) before his or her withdrawal shall contribute on the earning ceiling as provided for in this section on his or her reentry into membership in the Teachers' Retirement System.

2. An individual who elected to contribute on a maximum of Seven Thousand Eight Hundred Dollars ($7,800.00) per annum shall, beginning July 1, 1979, contribute on his or her earning ceiling as provided for in this section.

3. Any member who elected to contribute on Seven Thousand Eight Hundred Dollars ($7,800.00) prior to January 1, 1978, and whose salary was more than Seven Thousand Eight Hundred Dollars ($7,800.00) during the school years 1974-75 through 1978-79 may elect to make back contributions to the retirement system by paying the five percent (5%) contributions on the difference between Seven Thousand Eight Hundred Dollars ($7,800.00) and the actual salary of the member, not to exceed Ten Thousand Dollars ($10,000.00) for each applicable school year, plus interest compounded annually at ten percent (10%) per annum. Such payment shall be made prior to the official retirement date of the member.

G. Each employer shall cause to be deducted from the salary of each member on each and every payroll of such employer for each and every payroll period, the proper percentage of his or her earnable compensation as provided for in subsection B or subsection C of this section.

1. Deductions shall begin with the first payroll period of the school year. In determining the amount earnable by a member in a payroll period, the Board of Trustees shall consider the rate of annual compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deductions

from compensation for any period less than a full period, and to facilitate the making of deductions, it may modify the deduction required of any member by such an amount as shall not exceed one-tenth of one percent (1/10 of 1%) of the annual compensation upon the basis of which such deduction is to be made. Prior to January 1, 1991, any active contributing member who joined the System subsequent to July 1, 1943, may pay the normal cost, which shall mean the single sum which would have been paid under existing statutes at the time the service was performed, plus interest, for years of teaching service in Oklahoma from the date of establishment of the System in 1943 to date of membership, in a lump sum, or in installments equal to establishing one (1) year of creditable service. Effective January 1, 1991, any active contributing member who joined the System subsequent to July 1, 1943, may pay the amount determined by the Board of Trustees pursuant to Section 17-116.8 of this title for years of teaching service in Oklahoma from the date of establishment of the System in 1943 to date of membership, in a lump sum, or in installments equal to establishing one (1) year of creditable service. For purposes of this option, teaching service in Oklahoma shall include the teaching of vocational agricultural courses within Oklahoma for the federal government. Years for which contributions are paid shall count as membership service under this plan. A member may receive credit for not more than five (5) years of teaching service rendered while in the Peace Corps or in the public schools of a territory of the United States or the public schools, American Military Dependent Schools or state colleges or state universities outside this state by paying his or her contributions, plus interest, and membership fees to the retirement system, subject to the regulations of the Board of Trustees, providing he or she is not receiving and is not eligible to receive retirement credit or benefits from said service in any other public retirement system of this state, or any other state or territory of the United States subject to the following provisions:

a. the member is required to have two (2) years of employed service teaching earned in Oklahoma for each year of Peace Corps, territorial, out-of-state, noncovered in-state or military membership credit granted.

b. prior to January 1, 1991, the out-of-state or noncovered in-state payment shall be the normal cost, which means the single sum which would have been paid under existing law at the time the service was performed, plus interest, on the basis of what his or her annual salary would have been in Oklahoma or out of state, whichever is greater, had he or she been employed as a teacher. Effective January 1, 1991, the Peace Corps, territorial, out-of-state or noncovered in-state payment shall be the amount determined by the Board of Trustees pursuant to Section 17-116.8 of this title.

2. In addition to the deductions hereinabove provided for, any member who becomes a member of the Armed Forces of the United States of America during any period of national emergency, including World War II, the Korean conflict, the Vietnam conflict or others as may be determined by the Board of Trustees, or whose entrance into or training for the teaching profession was interrupted by his or her entrance into the Armed Forces, and who was or shall have become a member of the Teachers' Retirement System shall be granted the privilege of making up his or her five percent (5%) contributions as provided for in this section until January 1, 1991, for not to exceed five (5) years of service in the Armed Forces by electing to pay said contributions on the basis of the rate of pay in his or her contract as a teacher at the time his or her service in the Armed Forces commenced or in the case of a teacher who was not teaching prior to entering the Armed Forces, on the basis of the salary of the first year of teaching after being honorably discharged from the Armed Forces. Effective January 1, 1991, the member will receive such service upon payment of the amount determined by the Board of Trustees pursuant to Section 17-116.8 of this title. Such contributions shall be credited in the regular manner, and the period for which said contributions were paid shall be counted as creditable years of service and allocated to the period during which the military service was rendered, except that the period for which contributions were paid must have been continuous and shall be credited in the aggregate, regardless of fiscal year limitations. Notwithstanding any provision herein to the contrary, contributions, benefits and service credit with respect to qualified military service as defined by Section 414(u) of the Internal Revenue Code of 1986, shall be provided in accordance with Section 414(u) of the Internal Revenue Code.

3. Retirement benefits for all service credits purchased pursuant to this subsection shall be determined in accordance with the provisions of paragraph 2 of this subsection.

H. Effective July 1, 2004, the total creditable service of a member who retires or terminates employment and elects a vested benefit shall include not to exceed one hundred twenty (120) days of unused sick leave accumulated subsequent to August 1, 1959. Twenty (20) days of unused sick leave shall equal one (1) month for purposes of creditable service credit. If the member becomes a member or was eligible to become a member prior to July 1, 1995, the year of credit received in this section shall be treated as service earned prior to July 1, 1995. This subsection shall apply to members retiring or vesting on or after the effective date of this act and shall not be retroactive.

I. Any member who:

1. Shall be absent from the teaching service because of election to the State Legislature or appointment to the executive branch in an education-related capacity shall be allowed thirty (30) days from the date as of which the person is officially elected or appointed to file an election with the Teachers' Retirement System to retain his or her membership in the Teachers' Retirement System upon payment of the contribution required of other members and employers of said members as provided for in this section and his or her service credits shall continue to be accumulated during such absence, provided he or she is not receiving retirement credits or benefits from said service beginning after July 1, 1992, in other public retirement systems; or

2. Became an employee of the Oklahoma Commission for Teacher Preparation on or subsequent to June 1, 2001, but prior to July 1, 2002, who was previously employed by a participating employer within the Teachers' Retirement System of Oklahoma, may elect to cancel any accumulated service credit accrued within the Oklahoma Public Employees Retirement System on or after June 1, 2001, but prior to July 1, 2002, by filing an election with the Oklahoma Public Employees Retirement System for the cancellation of such service credit. The election shall be irrevocable and shall require the Oklahoma Public Employees Retirement System to transfer all accumulated employer and employee contributions made on behalf of or by the person making such election to the Teachers' Retirement System for such period of time. The Teachers' Retirement System shall compute the employee contributions that would have been made to the System by such employee if the contributions had been computed pursuant to this section. In order to receive the full amount of creditable service for the period of time on or after June 1, 2001, but not later than June 30, 2002, the employee shall be required to pay any difference between the transferred employee contributions and the amount computed by the Teachers' Retirement System. The employee may make payment of any required amount in the manner provided by and subject to the requirements of Section 17-116.8 of this title. After payment of all required employee contributions, the Teachers' Retirement System shall credit the period of time represented by the transferred employee contributions as creditable service within the meaning of Section 17-101 of this title. After the transfer of the employee contributions, the Oklahoma Public Employees Retirement System shall cancel any service credit previously accumulated for the period of time represented by such transferred employee contributions. Any person who makes the election provided for by this paragraph, and who continues employment with the Oklahoma Commission for Teacher Preparation on or after July 1, 2002, shall continue to accrue service credit in the Teachers' Retirement System of Oklahoma. The employer shall make employer contributions according to the requirements of Section 17-108.1 of this title and shall provide for the deduction of employee contributions as required by this section.

J. Any member who shall be absent from the teaching service because of election or appointment as a local, state or national education association officer shall be allowed to retain his or her membership in the Teachers' Retirement System upon payment of the contribution required of other members and employers of said members as provided for in this section and his or her service credits shall continue to be accumulated during such absence. Provided, however, any one such absence shall not exceed eight (8) continuous years. No member who has less than ten (10) years of contributory service on July 1, 1994, may make this election after June 30, 1994. Members contributing to the System on July 1, 1994, may continue to contribute under this subsection until they have completed eight (8) years allowed by this subsection. The member may file for retirement when otherwise eligible for retirement as provided by Section 17-105 of this title. Conditioned upon receiving a favorable determination letter or private letter ruling from the Internal Revenue Service, the eligible absence and participation continuation in the Teachers' Retirement System of Oklahoma pursuant to this subsection shall be increased to twelve (12) years. The Teachers' Retirement System of Oklahoma shall make any necessary efforts in obtaining an Internal Revenue Service determination letter or private letter ruling concerning such increase.

K. A member may receive credit for those years of service accumulated by the member while employed by an entity which is a participating employer in the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the Uniform Retirement System for Justices and Judges, the Oklahoma Law Enforcement Retirement System, or the Oklahoma Public Employees Retirement System, if the member is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system. A member also may receive credit for those years of service with the Department of Wildlife Conservation or with an employer that is a participating employer within one of the state retirement systems specifically referred to in this section when at the time of such service by the member the employer was not such a participating employer, if the member is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system. To receive the service credit provided in this subsection, the member shall pay the amount determined by the Board of Trustees pursuant to Section 17-116.8 of this title. For purposes of this subsection, creditable service transferred from the Oklahoma Public Employees Retirement System shall include service authorized under paragraph (f) of subsection (2)

of Section 913 of Title 74 of the Oklahoma Statutes as amended from time to time. Members who retire prior to July 1, 1993, shall have their monthly benefit adjusted to include all services accrued under paragraph (f) of subsection (2) of Section 913 of Title 74 of the Oklahoma Statutes. Provided however, any adjustment of existing retirement benefits caused by reason of inclusion of such service authorized under paragraph (f) of subsection (2) of Section 913 of Title 74 of the Oklahoma Statutes shall not affect any retirement benefit paid prior to July 1, 1993.

L. 1. An active member of the Teachers' Retirement System of Oklahoma may receive credit for those years of service accumulated by the member while a member of the Oklahoma Public Employees Retirement System if:

a. the member is an active member of the Teachers' Retirement System of Oklahoma, and

b. the member provides notice to the Oklahoma Public Employees Retirement System and the Teachers' Retirement System of Oklahoma of the member's election to transfer said service credit. The notice shall include a list of the years to be transferred, and

c. the member is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system, notwithstanding the years of service sought to be transferred under this subsection.

Members electing to take advantage of the transfer authorized by this subsection who are receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system shall have all service credit with the Oklahoma Public Employees Retirement System canceled which is not transferred to the Teachers' Retirement System of Oklahoma or used as a cash offset in such a transfer pursuant to subparagraph d of paragraph 2 of this subsection. Service credit transferred to the Teachers' Retirement System of Oklahoma under this subsection shall also be canceled with the Oklahoma Public Employees Retirement System.

2. For purposes of this subsection, the "sending system" shall mean the Oklahoma Public Employees Retirement System. The "receiving system" shall mean the Teachers' Retirement System of Oklahoma.

a. Within thirty (30) days notification of an intent to transfer is received by the sending system, the sending system shall, according to its own rules and regulations:

(1) for members who have accrued at least eight (8) years of credited service with the sending system, determine the present value of the member's earned benefits attributable to the years of service sought to be transferred, discounted according to the member's age at the time of transfer and computed as of the earliest age at which the member would be able to retire. Said computation shall assume an unreduced benefit and be computed using interest and mortality assumptions consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation, but shall not make any projections regarding future salary. For employees who have accrued at least eight (8) years of credited service, the sending system shall use the product of this calculation for purposes of determining the transfer fee to be paid by the employee under subparagraph c of this paragraph so long as it is greater than the product of the calculation in division (2) of this subparagraph, and

(2) determine the sum of the employee and employer contributions applicable to the years of service sought to be transferred plus interest consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation. For all non-vested members, and for members who have accrued at least eight (8) years of credited service, if the product of this calculation is greater than the product of the calculation in division (1) of this subparagraph, the sending system shall use the product of this calculation for purposes of determining the amount to be transferred by the sending system under subparagraph c of this paragraph and any transfer fee to be paid by the member under subparagraph d of this paragraph.

b. Within thirty (30) days notification of an intent to transfer is received by the receiving system, the receiving system shall determine, according to the system's own rules and regulations, the present value of the member's incremental projected benefits discounted according to the member's age at the time of the transfer. Incremental projected benefits shall be the difference between the projected benefit said member would receive without transferring the service credit and the projected benefit after transfer of service

credit computed as of the earliest age at which the member would be able to retire. Said computation shall assume an unreduced benefit and be computed using interest, salary projections and mortality assumptions consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation.

c. The sending system shall, within sixty (60) days from the date notification of an intent to transfer is received by the sending system, transfer to the receiving system the amount determined in subparagraph a of this paragraph. Except if the cost as calculated under subparagraph a of this paragraph is greater than the actuarial value of the incremental benefit in the receiving system, as established in subparagraph b of this paragraph, the sending system shall send the receiving system an amount equal to the actuarial value of the incremental projected benefit in the receiving system.

d. In order to receive the credit provided for in paragraph 1 of this subsection, if the cost of the actuarial value of the incremental benefit to the receiving system is greater than the cost as calculated under subparagraph a of this paragraph for the same years of service to the sending system as established in subparagraphs a and b of this paragraph, the employee shall elect to:

(1) pay any difference to receive full credit for the years sought to be transferred, or

(2) receive prorated service credit for only the amount received from the Oklahoma Public Employees Retirement System pursuant to this subsection.

Such an election shall be made in writing, filed with the System prior to receiving the credit provided for in paragraph 1 of this subsection, and shall be irrevocable.

3. Within sixty (60) days of successfully completing all of the requirements for transfer under this subsection, the sending system shall pay the receiving system any amount due under this subsection. Within sixty (60) days of successfully completing all of the requirements for transfer under this subsection, the member shall pay the receiving system any amount due under this subsection. In the event that the member is unable to pay the transfer fee provided for in this subsection by the due date, the Board of Trustees of the receiving system shall permit the member to amortize the transfer fee over a period not to exceed sixty (60) months. Said payments shall be made by payroll deductions unless the Board of Trustees permits an alternate payment source. The amortization shall include interest in an amount not to exceed the actuarially assumed interest rate adopted by the Board of Trustees for investment earnings each year. Any member who ceases to make payment, terminates, retires or dies before completing the payments provided for in this section shall receive prorated service credit for only those payments made, unless the unpaid balance is paid by said member, his or her estate or successor in interest within six (6) months after said member's death, termination of employment or retirement, provided no retirement benefits shall be payable until the unpaid balance is paid, unless said member or beneficiary affirmatively waives the additional six-month period in which to pay the unpaid balance.

4. Years of service transferred pursuant to this subsection shall be used both in determining the member's retirement benefit and in determining the years of service for retirement and/or vesting purposes. Years of service rendered as a member of the Oklahoma Public Employees Retirement System prior to July 1, 1992, if any, shall be deemed to be years of service rendered as a member of the Teachers' Retirement System of Oklahoma prior to July 1, 1992, and shall qualify such person as a member of the Teachers' Retirement System of Oklahoma before July 1, 1992.

5. Notwithstanding the requirements of subsection (5) of Section 917 of Title 74 of the Oklahoma Statutes, members electing to take advantage of the transfer authorized by this subsection who have withdrawn their contributions from the sending system shall remit to the sending system the amount of the accumulated contributions the member has withdrawn plus simple interest of ten percent (10%) per annum prior to making said election or the election shall be deemed invalid and the transfer shall be canceled. If such an election is deemed invalid and the transfer is canceled, the accumulated contribution remitted to the sending system by the member who originally withdrew their contributions shall be returned to the member. The member's rights and obligations regarding any service credit reestablished in the sending system due to a failure to satisfy the requirements of this subsection shall be determined by the sending system in accordance with Section 901 et seq. of Title 74 of the Oklahoma Statutes.

6. If any member fails for any reason to satisfy the requirements of this subsection, the election to transfer service credit shall be void and of no effect, and any service credited as a result of this transfer shall be canceled. If such service is canceled, the years of canceled service credit which were unsuccessfully transferred to the receiving system from the

sending system shall be reestablished in the sending system. The member's rights and obligations regarding any service credit reestablished in the sending system due to a failure to satisfy the requirements of this subsection shall be determined by the sending system in accordance with Section 901 et seq. of Title 74 of the Oklahoma Statutes.

7. The Board of Trustees shall promulgate such rules as are necessary to implement the provisions of this subsection.

M. Any member whose regular annual compensation was not determined as provided for by law may pay the member contribution required pursuant to subsection B of this section on such amount not included in the member's regular annual compensation and receive credit for such amount in the calculation of the member's benefit. The employees must pay the employer contributions required pursuant to Section 17-108.1 of this title. Interest at the rate of ten percent (10%) per annum shall be charged to both employee and employer contributions. Provided that the employing district may pay all or any portion of the contributions and interest the member is required to pay. Any payment by the employing district for a prior year obligation shall be considered a current obligation of the employer.

N. Any active member who elected during the 1978-79 school year to pay the difference between five percent (5%) on actual salary not exceeding Ten Thousand Dollars ($10,000.00) and six percent (6%) on actual salary not exceeding Fifteen Thousand Dollars ($15,000.00) shall receive credit for one (1) year of credited service upon receipt and approval of a proper request by the Board of Trustees.

O. Effective July 1, 1988, any member who is employed by the Governor, the State Senate, the House of Representatives or the Legislative Service Bureau shall be allowed to elect to retain membership in the Retirement System upon payment of the accrued and current member contributions and employer contributions as provided in subsection B of this section and Section 17-108.1 of this title. Such contributions may be paid on behalf of the member by the employing entity. Upon payment of such contributions, service credits shall continue to be accumulated during such employment. Accrued contributions shall be paid to the Retirement System by August 1, 1989. Current contributions shall be paid to the Retirement System by the tenth of the following month beginning with the month of July 1989.

P. Notwithstanding any requirements of this title to restrict the payment of service purchases, the Board of Trustees shall promulgate such rules as necessary to allow active members of the System to make installment payments for the redeposit of withdrawn accounts or other payments due under the provisions of this title. The rules shall permit the member to amortize the balance due over a period not to exceed sixty (60) months, and shall include interest consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation. Further, the rules shall provide that all payments must be completed prior to the effective retirement date of the member.

Q. 1. A member of the Oklahoma Public Employees Retirement System who becomes a member of the Teachers' Retirement System of Oklahoma because the member has become employed by an entity or institution within The Oklahoma State System of Higher Education, State Board of Education, State Board of Career and Technology Education, Oklahoma Department of Career and Technology Education, Oklahoma School of Science and Mathematics, Oklahoma Center for the Advancement of Science and Technology, State Department of Rehabilitation Services, Oklahoma State Regents for Higher Education, Department of Corrections, State Department of Education, Oklahoma Board of Private Vocational Schools, Board of Regents of Oklahoma Colleges, Oklahoma Student Loan Authority, or the Teachers' Retirement System of Oklahoma, may elect to receive credit in the Teachers' Retirement System of Oklahoma for those years of service accumulated by the member in the Oklahoma Public Employees Retirement System pursuant to this subsection. A member shall be eligible to elect to receive credit for such years of service if:

a. the member is an active member of the Teachers' Retirement System of Oklahoma,

b. the member provides notice to the Teachers' Retirement System of Oklahoma and the Oklahoma Public Employees Retirement System of the member's election to transfer such retirement credit. The notice shall include a list of the years to be transferred, and

c. the member is not receiving or eligible to receive retirement credit or benefits from such service in any other public retirement system, notwithstanding the years of service sought to be transferred under this subsection.

Members electing to take advantage of the transfer authorized by this subsection shall have all service credit with the Oklahoma Public Employees Retirement System canceled which is transferred to the Teachers' Retirement System of Oklahoma.

2. For purposes of this subsection, the "sending system" shall mean the Oklahoma Public Employees Retirement System. The "receiving system" shall mean the Teachers' Retirement System of Oklahoma. Within thirty (30) days after notification of an intent to transfer is received by the sending system, the sending system shall, according to its own rules, send to the receiving system all employer and employee contributions made on behalf of the member which were made to the sending system plus an additional amount of earnings based on the actuarial assumed rate of the sending system. Upon receipt of these contributions by the receiving system, the receiving system shall give credit to the transferring member in an amount equal to the years of service accrued in the sending system.

3. If the transferring member's normal retirement date calculation is based upon the sum of the member's age and number of years of credited service totaling eighty (80) in the sending system, then the member shall retain such calculation in the receiving system.

4. The Board of Trustees shall promulgate such rules as are necessary to implement the provisions of this subsection.

R. A former member of the Teachers' Retirement System of Oklahoma who withdrew his or her contributions from the System prior to January 1, 1983, and who had at least ten (10) years of service in the System and purchased that service in the Oklahoma Public Employees Retirement System, may elect to revoke that purchase from the Oklahoma Public Employees Retirement System and to repay the withdrawn contributions to the System in order to be eligible, once such member reaches the normal retirement age, to receive a retirement benefit that is based upon years of service and compensation at the time such member terminated employment. In addition, such former member may elect to transfer service credit accrued in the Oklahoma Public Employees Retirement System to the Teachers' Retirement System of Oklahoma pursuant to subsection L of this section. The election, pursuant to this subsection, shall be made prior to September 1, 2000. The election and the repayment shall be made according to rules promulgated by the Board. **(70-17-116.2)**

Note: Amended by SB 377, Sec. 3 of the 2011 Reg. Sess. Effective November 1, 2011.

Section 374. Retirement Allowance - Contributions - Salary Deductions. (Version 2)

A. 1. Beginning July 1, 1987, and prior to July 1, 1995, a member who retires on or after the member's normal retirement age or whose retirement is because of disability shall receive an annual allowance for life, payable monthly, in an amount equal to two percent (2%) of the member's highest three-year average salary upon which member contributions were made, multiplied by the number of the member's years of creditable service.

A classified member who retired prior to July 1, 1986, shall have the member's retirement allowance calculated on a minimum average salary of Eleven Thousand Five Hundred Dollars ($11,500.00) or on the member's current minimum average salary plus Two Thousand Dollars ($2,000.00), whichever is greater. Beginning July 1, 1994, a classified member who retired prior to July 1, 1993, shall have the member's retirement allowance calculated on the member's current minimum average salary plus Five Hundred Fifty Dollars ($550.00). An unclassified member who retired prior to July 1, 1986, shall have the member's retirement allowance calculated on a minimum average salary of Nine Thousand Five Hundred Dollars ($9,500.00) or on the member's current minimum average salary plus One Thousand Dollars ($1,000.00), whichever is greater. Beginning July 1, 1994, an unclassified member who retired prior to July 1, 1993, shall have the member's retirement allowance calculated on the member's current minimum average salary plus Two Hundred Seventy-five Dollars ($275.00). Those individuals receiving benefits pursuant to subsection (3) of Section 17-105 of this title whose benefits commenced prior to July 1, 1993, shall receive an increase in benefits of two and one-half percent (2 ½%). No retirement benefit payments shall be made retroactively.

Except for those members retiring because of a disability, the retirement allowance shall be subject to adjustment for those members retiring before normal retirement age in accordance with the actuarial equivalent factors adopted by the Board of Trustees.

2. Beginning July 1, 1995, a member, who has no service performed on or after July 1, 1995, for an entity or institution within The Oklahoma State System of Higher Education, who retires on or after the member's normal

retirement age or whose retirement is because of disability shall receive an annual allowance for life, payable monthly as follows:

a. if the member becomes a member after June 30, 1995, and was not eligible to become a member prior to July 1, 1995, in an amount equal to two percent (2%) of the member's average salary upon which member contributions were made, multiplied by the number of the member's years of creditable service, or

b. if the member became a member or is eligible to become a member prior to July 1, 1995, and elected to have a maximum compensation level in excess of Twenty-five Thousand Dollars ($25,000.00) pursuant to paragraph 1 of subsection C of this section or pursuant to subsection E of this section, or if the member's salary has never exceeded Twenty-five Thousand Dollars ($25,000.00) prior to July 1, 1995, in an amount equal to:

(1) two percent (2%) of the member's average salary upon which member contributions were made not to exceed Forty Thousand Dollars ($40,000.00), multiplied by the number of the member's years of credited service authorized and performed prior to July 1, 1995, plus any years of prior service authorized under this title, plus

(2) two percent (2%) of the member's average salary upon which member contributions were made, multiplied by the number of the member's years of credited service authorized and performed after June 30, 1995, or

c. if the member became a member or is eligible to become a member prior to July 1, 1995, and was eligible to elect to have a maximum compensation level in excess of Twenty-five Thousand Dollars ($25,000.00) and did not elect or elected not to have a maximum compensation level of Forty Thousand Dollars ($40,000.00) pursuant to paragraph 1 of subsection C of this section or pursuant to subsection E of this section, in an amount equal to:

(1) two percent (2%) of the member's average salary upon which member contributions were made not to exceed Twenty-five Thousand Dollars ($25,000.00), multiplied by the number of the member's years of credited service authorized and performed prior to July 1, 1995, plus any years of prior service authorized under this title, plus

(2) two percent (2%) of the member's average salary upon which member contributions were made, multiplied by the number of the member's years of credited service authorized and performed after June 30, 1995.

B. Except as otherwise provided for in this section, the amount contributed by each member to the retirement system shall be:

1. Beginning July 1, 1992, through June 30, 1996, six percent (6%) of the regular annual compensation of such member not in excess of Twenty-five Thousand Dollars ($25,000.00) and beginning July 1, 1995, through June 30, 1996, six percent (6%) of the maximum compensation level; and

2. Beginning July 1, 1996, through June 30, 1997, six and one-half percent (6 1/2%) of the regular annual compensation of members, who are not employed by an entity or institution within The Oklahoma State System of Higher Education not in excess of Twenty-five Thousand Dollars ($25,000.00) and beginning July 1, 1996, through June 30, 1997, six and one-half percent (6 1/2%) of the regular annual compensation of members, who are employed by an entity or institution within The Oklahoma State System of Higher Education, not in excess of Twenty-five Thousand Dollars ($25,000.00);

3. Beginning July 1, 1997, seven percent (7%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member; and

4. All public schools in this state shall treat the employee contributions as being picked-up under the provisions of Section 414(h)(2) of the Internal Revenue Code of 1986 in determining tax treatment.

C. 1. Prior to July 1, 1995, an active member of the System may elect to have a maximum compensation level of Forty Thousand Dollars ($40,000.00). Such an election shall be made in writing and filed with the System. Members whose salaries are in excess of Twenty-five Thousand Dollars ($25,000.00) on July 20, 1987, shall file the election with the System prior to January 1, 1988. Members whose salaries exceed Twenty-five Thousand Dollars ($25,000.00) after July 20, 1987, shall file the election when the salary exceeds Twenty-five Thousand Dollars ($25,000.00). If a member makes such an election, the member shall contribute the following amounts:

a. beginning July 1, 1992, through June 30, 1993, eleven percent (11%) of the regular annual compensation of such member that is in excess of Twenty-five Thousand Dollars ($25,000.00) and is not in excess of Forty Thousand Dollars ($40,000.00),

b. beginning July 1, 1993, through June 30, 1994, nine percent (9%) of the regular annual compensation of such member that is in excess of Twenty-five Thousand Dollars ($25,000.00) and is not in excess of Forty Thousand Dollars ($40,000.00), and

c. beginning July 1, 1994, through June 30, 1995, eight percent (8%) of the regular annual compensation of such member that is in excess of Twenty-five Thousand Dollars ($25,000.00) and is not in excess of Forty Thousand Dollars ($40,000.00). Except as provided in subsection E of this section, any such election shall be irrevocable.

2. After June 30, 1995, in addition to the amount contributed by each member to the retirement system pursuant to subsection B of this section, the total amount contributed by each member to the retirement system shall include, beginning July 1, 1995, through June 30, 1997, seven percent (7%) of the regular annual compensation of each member, who is not employed by an entity or institution within The Oklahoma State System of Higher Education, that is in excess of Twenty-five Thousand Dollars ($25,000.00) and beginning July 1, 1996, through June 30, 1997, seven percent (7%) of the regular annual compensation of each member who is employed by an entity or institution within The Oklahoma State System of Higher Education in excess of Twenty-five Thousand Dollars ($25,000.00), but not in excess of any applicable maximum compensation level of the member.

D. For purposes of Section 17-101 et seq. of this title, regular annual compensation shall include:

1. Salary which accrues on a regular basis in proportion to the service performed, including payments for staff development;

2. Amounts that would otherwise qualify as salary under paragraph 1 of this subsection but are not received directly by the member pursuant to a good faith, voluntary written salary reduction agreement in order to finance payments to a deferred compensation or tax-sheltered annuity program or to finance benefit options under a cafeteria plan qualifying under the United States Internal Revenue Code, 26 U.S.C., Section 101 et seq.; and

3. Group health and disability insurance, group term life insurance, annuities and pension plans, provided on a periodic basis to all qualified employees of the employer, which qualify as fringe benefits under the United States Internal Revenue Code.

4. Excluded from regular annual compensation are expense reimbursement payments, office, vehicle, housing or other maintenance allowances, the flexible benefit allowance provided pursuant to Section 26-105 of this title, payment for unused vacation and sick leave, any payment made for reason of termination or retirement not specifically provided for in paragraphs 1 through 3 of this subsection, maintenance or other nonmonetary compensation, payment received as an independent contractor or consultant, pursuant to a lawful contract which complies with the requirements of subsection B of Section 6-101.2 of this title, any benefit payments not made pursuant to a valid employment agreement, or any compensation not described in paragraphs 1 through 3 of this subsection.

E. 1. Any member who was a contributing member of the Retirement System between July 1, 1987, and June 30, 1995, who at the time the member was eligible to make an election to increase the maximum compensation level of the member, failed to make an election or chose not to increase the maximum compensation level of the member to Forty Thousand Dollars ($40,000.00), may elect to make back contributions to the Retirement System. The member shall complete a new election form and file with the Board of Trustees, the form and a payment equaling the difference between the amount contributed at the twenty-five-thousand-dollar level and the appropriate contribution on compensation in excess of Twenty-five Thousand Dollars ($25,000.00) up to a maximum of Forty Thousand Dollars

($40,000.00) shall be made prior to the official retirement date of the member. The required payment shall include any contribution required by the employing school district, and shall include interest compounded annually at ten percent (10%) per annum of both employer and employee contributions.

2. Any changes made pursuant to this subsection shall be irrevocable.

F. 1. An individual who withdrew from the Teachers' Retirement System and whose salary was in excess of Seven Thousand Eight Hundred Dollars ($7,800.00) and had elected to contribute only on Seven Thousand Eight Hundred Dollars ($7,800.00) before his or her withdrawal shall contribute on the earning ceiling as provided for in this section on his or her reentry into membership in the Teachers' Retirement System.

2. An individual who elected to contribute on a maximum of Seven Thousand Eight Hundred Dollars ($7,800.00) per annum shall, beginning July 1, 1979, contribute on his or her earning ceiling as provided for in this section.

3. Any member who elected to contribute on Seven Thousand Eight Hundred Dollars ($7,800.00) prior to January 1, 1978, and whose salary was more than Seven Thousand Eight Hundred Dollars ($7,800.00) during the school years 1974-75 through 1978-79 may elect to make back contributions to the retirement system by paying the five percent (5%) contributions on the difference between Seven Thousand Eight Hundred Dollars ($7,800.00) and the actual salary of the member, not to exceed Ten Thousand Dollars ($10,000.00) for each applicable school year, plus interest compounded annually at ten percent (10%) per annum. Such payment shall be made prior to the official retirement date of the member.

G. Each employer shall cause to be deducted from the salary of each member on each and every payroll of such employer for each and every payroll period, the proper percentage of his or her earnable compensation as provided for in subsection B or subsection C of this section.

1. Deductions shall begin with the first payroll period of the school year. In determining the amount earnable by a member in a payroll period, the Board of Trustees shall consider the rate of annual compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deductions from compensation for any period less than a full period, and to facilitate the making of deductions, it may modify the deduction required of any member by such an amount as shall not exceed one-tenth of one percent (1/10 of 1%) of the annual compensation upon the basis of which such deduction is to be made. Prior to January 1, 1991, any active contributing member who joined the System subsequent to July 1, 1943, may pay the normal cost, which shall mean the single sum which would have been paid under existing statutes at the time the service was performed, plus interest, for years of teaching service in Oklahoma from the date of establishment of the System in 1943 to date of membership, in a lump sum, or in installments equal to establishing one (1) year of creditable service. Effective January 1, 1991, any active contributing member who joined the System subsequent to July 1, 1943, may pay the amount determined by the Board of Trustees pursuant to Section 17-116.8 of this title for years of teaching service in Oklahoma from the date of establishment of the System in 1943 to date of membership, in a lump sum, or in installments equal to establishing one (1) year of creditable service. For purposes of this option, teaching service in Oklahoma shall include the teaching of vocational agricultural courses within Oklahoma for the federal government. Years for which contributions are paid shall count as membership service under this plan. A member may receive credit for not more than five (5) years of teaching service rendered while in the Peace Corps or in the public schools of a territory of the United States or the public schools, American Military Dependent Schools or state colleges or state universities outside this state by paying his or her contributions, plus interest, and membership fees to the retirement system, subject to the regulations of the Board of Trustees, providing he or she is not receiving and is not eligible to receive retirement credit or benefits from said service in any other public retirement system of this state, or any other state or territory of the United States subject to the following provisions:

a. the member is required to have two (2) years of employed service teaching earned in Oklahoma for each year of Peace Corps, territorial, out-of-state, noncovered in-state or military membership credit granted.

b. prior to January 1, 1991, the out-of-state or noncovered in-state payment shall be the normal cost, which means the single sum which would have been paid under existing law at the time the service was performed, plus interest, on the basis of what his or her annual salary would have been in Oklahoma or out of state, whichever is greater, had he or she been employed as a teacher. Effective January 1, 1991, the Peace Corps, territorial, out-of-state or noncovered in-state payment shall be the amount determined by the Board of Trustees pursuant to Section 17-116.8 of this title.

2. In addition to the deductions hereinabove provided for, any member who becomes a member of the Armed Forces of the United States of America during any period of national emergency, including World War II, the Korean conflict, the Vietnam conflict or others as may be determined by the Board of Trustees, or whose entrance into or training for the teaching profession was interrupted by his or her entrance into the Armed Forces, and who was or shall have become a member of the Teachers' Retirement System shall be granted the privilege of making up his or her five percent (5%) contributions as provided for in this section until January 1, 1991, for not to exceed five (5) years of service in the Armed Forces by electing to pay said contributions on the basis of the rate of pay in his or her contract as a teacher at the time his or her service in the Armed Forces commenced or in the case of a teacher who was not teaching prior to entering the Armed Forces, on the basis of the salary of the first year of teaching after being honorably discharged from the Armed Forces. Effective January 1, 1991, the member will receive such service upon payment of the amount determined by the Board of Trustees pursuant to Section 17-116.8 of this title. Such contributions shall be credited in the regular manner, and the period for which said contributions were paid shall be counted as creditable years of service and allocated to the period during which the military service was rendered, except that the period for which contributions were paid must have been continuous and shall be credited in the aggregate, regardless of fiscal year limitations. Notwithstanding any provision herein to the contrary, contributions, benefits and service credit with respect to qualified military service as defined by Section 414(u) of the Internal Revenue Code of 1986, shall be provided in accordance with Section 414(u) of the Internal Revenue Code.

3. Retirement benefits for all service credits purchased pursuant to this subsection shall be determined in accordance with the provisions of paragraph 2 of this subsection.

H. Effective July 1, 2004, the total creditable service of a member who retires or terminates employment and elects a vested benefit shall include not to exceed one hundred twenty (120) days of unused sick leave accumulated subsequent to August 1, 1959. Twenty (20) days of unused sick leave shall equal one (1) month for purposes of creditable service credit. If the member becomes a member or was eligible to become a member prior to July 1, 1995, the year of credit received in this section shall be treated as service earned prior to July 1, 1995. This subsection shall apply to members retiring or vesting on or after the effective date of this act and shall not be retroactive.

I. Any member who:

1. Shall be absent from the teaching service because of election to the State Legislature or appointment to the executive branch in an education-related capacity shall be allowed thirty (30) days from the date as of which the person is officially elected or appointed to file an election with the Teachers' Retirement System to retain his or her membership in the Teachers' Retirement System upon payment of the contribution required of other members and employers of said members as provided for in this section and his or her service credits shall continue to be accumulated during such absence, provided he or she is not receiving retirement credits or benefits from said service beginning after July 1, 1992, in other public retirement systems; or

2. Became an employee of the Oklahoma Commission for Teacher Preparation on or subsequent to June 1, 2001, but prior to July 1, 2002, who was previously employed by a participating employer within the Teachers' Retirement System of Oklahoma, may elect to cancel any accumulated service credit accrued within the Oklahoma Public Employees Retirement System on or after June 1, 2001, but prior to July 1, 2002, by filing an election with the Oklahoma Public Employees Retirement System for the cancellation of such service credit. The election shall be irrevocable and shall require the Oklahoma Public Employees Retirement System to transfer all accumulated employer and employee contributions made on behalf of or by the person making such election to the Teachers' Retirement System for such period of time. The Teachers' Retirement System shall compute the employee contributions that would have been made to the System by such employee if the contributions had been computed pursuant to this section. In order to receive the full amount of creditable service for the period of time on or after June 1, 2001, but not later than June 30, 2002, the employee shall be required to pay any difference between the transferred employee contributions and the amount computed by the Teachers' Retirement System. The employee may make payment of any required amount in the manner provided by and subject to the requirements of Section 17-116.8 of this title. After payment of all required employee contributions, the Teachers' Retirement System shall credit the period of time represented by the transferred employee contributions as creditable service within the meaning of Section 17-101 of this title. After the transfer of the employee contributions, the Oklahoma Public Employees Retirement System shall cancel any service credit previously accumulated for the period of time represented by such transferred employee contributions. Any person who makes the election provided for by this paragraph, and who continues employment with the Oklahoma Commission for Teacher Preparation on or after July 1, 2002, shall continue to accrue service credit in the Teachers' Retirement System of Oklahoma. The

employer shall make employer contributions according to the requirements of Section 17-108.1 of this title and shall provide for the deduction of employee contributions as required by this section.

J. Any member who shall be absent from the teaching service because of election or appointment as a local, state or national education association officer, prior to January 1, 2011, shall be allowed to retain his or her membership in the Teachers' Retirement System upon payment of the contribution required of other members and employers of said members as provided for in this section and his or her service credits shall continue to be accumulated during such absence. Provided, however, any one such absence shall not exceed twelve (12) continuous years. No member who has less than ten (10) years of contributory service on July 1, 1994, may make this election after June 30, 1994. Members contributing to the System on July 1, 1994, may continue to contribute under this subsection until they have completed eight (8) years allowed by this subsection. The member may file for retirement when otherwise eligible for retirement as provided by Section 17-105 of this title

K. A member may receive credit for those years of service accumulated by the member while employed by an entity which is a participating employer in the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the Uniform Retirement System for Justices and Judges, the Oklahoma Law Enforcement Retirement System, or the Oklahoma Public Employees Retirement System, if the member is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system. A member also may receive credit for those years of service with the Department of Wildlife Conservation or with an employer that is a participating employer within one of the state retirement systems specifically referred to in this section when at the time of such service by the member the employer was not such a participating employer, if the member is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system. To receive the service credit provided in this subsection, the member shall pay the amount determined by the Board of Trustees pursuant to Section 17-116.8 of this title. For purposes of this subsection, creditable service transferred from the Oklahoma Public Employees Retirement System shall include service authorized under paragraph (f) of subsection (2) of Section 913 of Title 74 of the Oklahoma Statutes as amended from time to time. Members who retire prior to July 1, 1993, shall have their monthly benefit adjusted to include all services accrued under paragraph (f) of subsection (2) of Section 913 of Title 74 of the Oklahoma Statutes. Provided however, any adjustment of existing retirement benefits caused by reason of inclusion of such service authorized under paragraph (f) of subsection (2) of Section 913 of Title 74 of the Oklahoma Statutes shall not affect any retirement benefit paid prior to July 1, 1993.

L. 1. An active member of the Teachers' Retirement System of Oklahoma may receive credit for those years of service accumulated by the member while a member of the Oklahoma Public Employees Retirement System if:

a. the member is an active member of the Teachers' Retirement System of Oklahoma, and

b. the member provides notice to the Oklahoma Public Employees Retirement System and the Teachers' Retirement System of Oklahoma of the member's election to transfer said service credit. The notice shall include a list of the years to be transferred, and

c. the member is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system, notwithstanding the years of service sought to be transferred under this subsection.

Members electing to take advantage of the transfer authorized by this subsection who are receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system shall have all service credit with the Oklahoma Public Employees Retirement System canceled which is not transferred to the Teachers' Retirement System of Oklahoma or used as a cash offset in such a transfer pursuant to subparagraph d of paragraph 2 of this subsection. Service credit transferred to the Teachers' Retirement System of Oklahoma under this subsection shall also be canceled with the Oklahoma Public Employees Retirement System.

2. For purposes of this subsection, the "sending system" shall mean the Oklahoma Public Employees Retirement System. The "receiving system" shall mean the Teachers' Retirement System of Oklahoma.

a. Within thirty (30) days notification of an intent to transfer is received by the sending system, the sending system shall, according to its own rules and regulations:

(1) for members who have accrued at least eight (8) years of credited service with the sending system, determine the present value of the member's earned benefits attributable to the years of service sought to be transferred, discounted according to the member's age at the time of transfer and computed as of the earliest age at which the member would be able to retire. Said computation shall assume an unreduced benefit and be computed using interest and mortality assumptions consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation, but shall not make any projections regarding future salary. For employees who have accrued at least eight (8) years of credited service, the sending system shall use the product of this calculation for purposes of determining the transfer fee to be paid by the employee under subparagraph c of this paragraph so long as it is greater than the product of the calculation in division (2) of this subparagraph, and

(2) determine the sum of the employee and employer contributions applicable to the years of service sought to be transferred plus interest consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation. For all non-vested members, and for members who have accrued at least eight (8) years of credited service, if the product of this calculation is greater than the product of the calculation in division (1) of this subparagraph, the sending system shall use the product of this calculation for purposes of determining the amount to be transferred by the sending system under subparagraph c of this paragraph and any transfer fee to be paid by the member under subparagraph d of this paragraph.

b. Within thirty (30) days notification of an intent to transfer is received by the receiving system, the receiving system shall determine, according to the system's own rules and regulations, the present value of the member's incremental projected benefits discounted according to the member's age at the time of the transfer. Incremental projected benefits shall be the difference between the projected benefit said member would receive without transferring the service credit and the projected benefit after transfer of service credit computed as of the earliest age at which the member would be able to retire. Said computation shall assume an unreduced benefit and be computed using interest, salary projections and mortality assumptions consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation.

c. The sending system shall, within sixty (60) days from the date notification of an intent to transfer is received by the sending system, transfer to the receiving system the amount determined in subparagraph a of this paragraph. Except if the cost as calculated under subparagraph a of this paragraph is greater than the actuarial value of the incremental benefit in the receiving system, as established in subparagraph b of this paragraph, the sending system shall send the receiving system an amount equal to the actuarial value of the incremental projected benefit in the receiving system.

d. In order to receive the credit provided for in paragraph 1 of this subsection, if the cost of the actuarial value of the incremental benefit to the receiving system is greater than the cost as calculated under subparagraph a of this paragraph for the same years of service to the sending system as established in subparagraphs a and b of this paragraph, the employee shall elect to:

(1) pay any difference to receive full credit for the years sought to be transferred, or

(2) receive prorated service credit for only the amount received from the Oklahoma Public Employees Retirement System pursuant to this subsection.

Such an election shall be made in writing, filed with the System prior to receiving the credit provided for in paragraph 1 of this subsection, and shall be irrevocable.

3. Within sixty (60) days of successfully completing all of the requirements for transfer under this subsection, the sending system shall pay the receiving system any amount due under this subsection. Within sixty (60) days of successfully completing all of the requirements for transfer under this subsection, the member shall pay the receiving system any amount due under this subsection. In the event that the member is unable to pay the transfer fee provided for in this subsection by the due date, the Board of Trustees of the receiving system shall permit the member to amortize the transfer fee over a period not to exceed sixty (60) months. Said payments shall be made by payroll deductions unless the Board of Trustees permits an alternate payment source. The amortization shall include interest in an amount not to

exceed the actuarially assumed interest rate adopted by the Board of Trustees for investment earnings each year. Any member who ceases to make payment, terminates, retires or dies before completing the payments provided for in this section shall receive prorated service credit for only those payments made, unless the unpaid balance is paid by said member, his or her estate or successor in interest within six (6) months after said member's death, termination of employment or retirement, provided no retirement benefits shall be payable until the unpaid balance is paid, unless said member or beneficiary affirmatively waives the additional six-month period in which to pay the unpaid balance.

4. Years of service transferred pursuant to this subsection shall be used both in determining the member's retirement benefit and in determining the years of service for retirement and/or vesting purposes. Years of service rendered as a member of the Oklahoma Public Employees Retirement System prior to July 1, 1992, if any, shall be deemed to be years of service rendered as a member of the Teachers' Retirement System of Oklahoma prior to July 1, 1992, and shall qualify such person as a member of the Teachers' Retirement System of Oklahoma before July 1, 1992.

5. Notwithstanding the requirements of subsection (5) of Section 917 of Title 74 of the Oklahoma Statutes, members electing to take advantage of the transfer authorized by this subsection who have withdrawn their contributions from the sending system shall remit to the sending system the amount of the accumulated contributions the member has withdrawn plus simple interest of ten percent (10%) per annum prior to making said election or the election shall be deemed invalid and the transfer shall be canceled. If such an election is deemed invalid and the transfer is canceled, the accumulated contribution remitted to the sending system by the member who originally withdrew their contributions shall be returned to the member. The member's rights and obligations regarding any service credit reestablished in the sending system due to a failure to satisfy the requirements of this subsection shall be determined by the sending system in accordance with Section 901 et seq. of Title 74 of the Oklahoma Statutes.

6. If any member fails for any reason to satisfy the requirements of this subsection, the election to transfer service credit shall be void and of no effect, and any service credited as a result of this transfer shall be canceled. If such service is canceled, the years of canceled service credit which were unsuccessfully transferred to the receiving system from the sending system shall be reestablished in the sending system. The member's rights and obligations regarding any service credit reestablished in the sending system due to a failure to satisfy the requirements of this subsection shall be determined by the sending system in accordance with Section 901 et seq. of Title 74 of the Oklahoma Statutes.

7. The Board of Trustees shall promulgate such rules as are necessary to implement the provisions of this subsection.

M. Any member whose regular annual compensation was not determined as provided for by law may pay the member contribution required pursuant to subsection B of this section on such amount not included in the member's regular annual compensation and receive credit for such amount in the calculation of the member's benefit. The employees must pay the employer contributions required pursuant to Section 17-108.1 of this title. Interest at the rate of ten percent (10%) per annum shall be charged to both employee and employer contributions. Provided that the employing district may pay all or any portion of the contributions and interest the member is required to pay. Any payment by the employing district for a prior year obligation shall be considered a current obligation of the employer.

N. Any active member who elected during the 1978-79 school year to pay the difference between five percent (5%) on actual salary not exceeding Ten Thousand Dollars ($10,000.00) and six percent (6%) on actual salary not exceeding Fifteen Thousand Dollars ($15,000.00) shall receive credit for one (1) year of credited service upon receipt and approval of a proper request by the Board of Trustees.

O. Effective July 1, 1988, any member who is employed by the Governor, the State Senate, the House of Representatives or the Legislative Service Bureau shall be allowed to elect to retain membership in the Retirement System upon payment of the accrued and current member contributions and employer contributions as provided in subsection B of this section and Section 17-108.1 of this title. Such contributions may be paid on behalf of the member by the employing entity. Upon payment of such contributions, service credits shall continue to be accumulated during such employment. Accrued contributions shall be paid to the Retirement System by August 1, 1989. Current contributions shall be paid to the Retirement System by the tenth of the following month beginning with the month of July 1989.

P. Notwithstanding any requirements of this title to restrict the payment of service purchases, the Board of Trustees shall promulgate such rules as necessary to allow active members of the System to make installment payments for the redeposit of withdrawn accounts or other payments due under the provisions of this title. The rules shall permit the member to amortize the balance due over a period not to exceed sixty (60) months, and shall include interest consistent

with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation. Further, the rules shall provide that all payments must be completed prior to the effective retirement date of the member.

Q. 1. A member of the Oklahoma Public Employees Retirement System who becomes a member of the Teachers' Retirement System of Oklahoma because the member has become employed by an entity or institution within The Oklahoma State System of Higher Education, State Board of Education, State Board of Career and Technology Education, Oklahoma Department of Career and Technology Education, Oklahoma School of Science and Mathematics, Oklahoma Center for the Advancement of Science and Technology, State Department of Rehabilitation Services, Oklahoma State Regents for Higher Education, Department of Corrections, State Department of Education, Oklahoma Board of Private Vocational Schools, Board of Regents of Oklahoma Colleges, Oklahoma Student Loan Authority, or the Teachers' Retirement System of Oklahoma, may elect to receive credit in the Teachers' Retirement System of Oklahoma for those years of service accumulated by the member in the Oklahoma Public Employees Retirement System pursuant to this subsection. A member shall be eligible to elect to receive credit for such years of service if:

a. the member is an active member of the Teachers' Retirement System of Oklahoma,

b. the member provides notice to the Teachers' Retirement System of Oklahoma and the Oklahoma Public Employees Retirement System of the member's election to transfer such retirement credit. The notice shall include a list of the years to be transferred, and

c. the member is not receiving or eligible to receive retirement credit or benefits from such service in any other public retirement system, notwithstanding the years of service sought to be transferred under this subsection.

Members electing to take advantage of the transfer authorized by this subsection shall have all service credit with the Oklahoma Public Employees Retirement System canceled which is transferred to the Teachers' Retirement System of Oklahoma.

2. For purposes of this subsection, the "sending system" shall mean the Oklahoma Public Employees Retirement System. The "receiving system" shall mean the Teachers' Retirement System of Oklahoma. Within thirty (30) days after notification of an intent to transfer is received by the sending system, the sending system shall, according to its own rules, send to the receiving system all employer and employee contributions made on behalf of the member which were made to the sending system plus an additional amount of earnings based on the actuarial assumed rate of the sending system. Upon receipt of these contributions by the receiving system, the receiving system shall give credit to the transferring member in an amount equal to the years of service accrued in the sending system.

3. If the transferring member's normal retirement date calculation is based upon the sum of the member's age and number of years of credited service totaling eighty (80) in the sending system, then the member shall retain such calculation in the receiving system.

4. The Board of Trustees shall promulgate such rules as are necessary to implement the provisions of this subsection.

R. A former member of the Teachers' Retirement System of Oklahoma who withdrew his or her contributions from the System prior to January 1, 1983, and who had at least ten (10) years of service in the System and purchased that service in the Oklahoma Public Employees Retirement System, may elect to revoke that purchase from the Oklahoma Public Employees Retirement System and to repay the withdrawn contributions to the System in order to be eligible, once such member reaches the normal retirement age, to receive a retirement benefit that is based upon years of service and compensation at the time such member terminated employment. In addition, such former member may elect to transfer service credit accrued in the Oklahoma Public Employees Retirement System to the Teachers' Retirement System of Oklahoma pursuant to subsection K of this section. The election, pursuant to this subsection, shall be made prior to September 1, 2000. The election and the repayment shall be made according to rules promulgated by the Board. **(70-17-116.2)**

Note: Amended by HB 1648, Sec. 1 of the 2011 Reg. Sess. Effective January 1, 2012.

Section 374.1. Election Regarding Maximum Compensation Level.

A. Except as otherwise provided by this section, an active contributing member of the retirement system who performed membership service as an employee of a comprehensive university on or after July 1, 1995, but not later than June 30, 1996, may with respect to membership service performed between those dates, inclusive, elect to:

1. Retroactively impose a maximum compensation level of Thirty-two Thousand Five Hundred Dollars ($32,500.00), if the member was subject to a maximum compensation level of Twenty-seven Thousand Five Hundred Dollars ($27,500.00) for service performed on or after July 1, 1995, but not later than June 30, 1996; or

2. Retroactively impose a maximum compensation level of Forty-nine Thousand Dollars ($49,000.00), if the member was subject to a maximum compensation level of Forty-four Thousand Dollars ($44,000.00) for service performed on or after July 1, 1995, but not later than June 30, 1996.

B. Except as otherwise provided by this section, an active contributing member of the retirement system who performed membership service as an employee of an entity or institution within The Oklahoma State System of Higher Education, other than a comprehensive university, on or after July 1, 1995, but not later than June 30, 1996, may with respect to membership service performed between those dates, inclusive, elect to retroactively remove the maximum compensation level applicable to the member's compensation for any service performed during that time period.

C. A member electing a maximum compensation level or removing a maximum compensation level pursuant to subsection A or subsection B of this section shall be required to pay to the retirement system the full amount of employer contributions and employee contributions applicable for the period of service based upon the elections authorized by this section, less the amount of employer contributions and employee contributions made or credited for that period, plus ten percent (10%) interest from the date such contributions would have been made until the payment is made to the retirement system. The interest charged pursuant to this subsection shall be compounded annually. A member may pay the amount prescribed by this subsection at any time prior to the date as of which the member files the written application for retirement with the retirement system. An entity or institution within The Oklahoma State System of Higher Education may make payment to the retirement system for any part or all of the amount required by this subsection for an employee of that entity or institution in order for retirement benefits to be computed at the applicable maximum compensation level for membership service performed on or after July 1, 1995, but not later than June 30, 1996. Any amount paid by an employer pursuant to this subsection shall be deemed to be picked up by the employer pursuant to Section 414(h) of the Internal Revenue Code of 1986, as amended.

D. If a member who elects a retroactive maximum compensation level or who elects to retroactively remove a maximum compensation level pursuant to subsection A or subsection B of this section fails to pay the amount required to receive credit for compensation earned on or after July 1, 1995, but not later than June 30, 1996, the member shall receive retirement benefits for this period of service based upon compensation upon which both the required employer and employee contributions were actually made.

E. For purposes of computing the retirement allowance of a member authorized to make the election authorized by subsection A or subsection B of this section, no member electing a retroactive maximum compensation level or retroactively removing a maximum compensation level pursuant to subsection A or subsection B of this section may receive retirement benefits for the period of service based upon compensation in excess of the amount of compensation upon which employer and employee contributions were actually paid unless full payment to the retirement system is made as required by subsection C of this section.

F. No provision contained in this section shall be considered or construed to require payment of any sum by an entity or institution within The Oklahoma State System of Higher Education of amounts owed to the retirement system by a member who makes an election authorized by subsection A or subsection B of this section.

G. A member eligible to make the election authorized by subsection A or subsection B of this section shall:

1. Make the election in writing, upon a form to be prescribed by the Board of Trustees; and

2. File the election with the Board of Trustees not later than December 31, 1996.

H. All elections authorized by the provisions of subsection A or subsection B of this section shall be permitted once, and only once, for each employee authorized to make the election. Any election made pursuant to the provisions of this section shall be irrevocable and shall bind the employee, the employee's heirs, beneficiaries and other interested persons, with respect to the amount of compensation upon which contributions shall be made and the amount of retirement benefits resulting from the election so made. Any employee who is eligible to make an election pursuant to the provisions of this section, but who fails to do so, for whatever reason, shall forfeit any right or power by the employee to attempt to exercise the election at any later time. All elections made pursuant to this section shall be operative only for service performed and compensation received from an entity or institution within The Oklahoma State System of Higher Education and shall not have any effect with respect to compensation received from any other participating employer within the Teachers' Retirement System of Oklahoma. **(70-17-116.2A)**

Section 374.2. Annual Allowance Upon Retirement.

Beginning July 1, 1996, a member who has any creditable service as an employee of an entity or institution within The Oklahoma State System of Higher Education on or after July 1, 1995, who retires on or after the member's normal retirement age or whose retirement is because of disability shall receive an annual allowance for life, payable monthly, as follows:

1. If the member becomes a member after June 30, 1995, and was not eligible to become a member prior to July 1, 1995, in an amount equal to:

a. two percent (2%) of the member's salary upon which member contributions were made, multiplied by the number of the member's years of credited service authorized and performed on or after July 1, 1995, but not later than June 30, 1996, plus

b. two percent (2%) of the member's average salary upon which member contributions were made, multiplied by the number of the member's years of credited service authorized and performed for a comprehensive university on or after July 1, 1996, plus

c. two percent (2%) of the member's average salary upon which member contributions were made, multiplied by the number of the member's years of credited service authorized and performed for an employer other than a comprehensive university or for service performed for an employer other than an entity or institution within The Oklahoma State System of Higher Education on or after July 1, 1996, but not later than June 30, 2001, plus

d. two percent (2%) of the member's average salary upon which member contributions were made, multiplied by the number of the member's years of credited service authorized and performed on or after July 1, 2001.

2. If the member became a member or is eligible to become a member prior to July 1, 1995, and elected to have a maximum compensation level in excess of Twenty-five Thousand Dollars ($25,000.00) pursuant to paragraph 1 of subsection C of Section 17-116.2 of Title 70 of the Oklahoma Statutes or pursuant to subsection E of Section 17-116.2 of Title 70 of the Oklahoma Statutes, or if the member's salary has never exceeded Twenty-five Thousand Dollars ($25,000.00) prior to July 1, 1995, in an amount equal to:

a. two percent (2%) of the member's average salary upon which member contributions were made, not to exceed Forty Thousand Dollars ($40,000.00), multiplied by the number of the member's years of credited service authorized and performed prior to July 1, 1995, plus any years of prior service authorized under this title, plus

b. two percent (2%) of the member's salary upon which member contributions were made, not to exceed the maximum compensation level in effect for the member for the period July 1, 1995, through June 30, 1996, which shall be:

(1) Forty-four Thousand Dollars ($44,000.00), if the member was subject to this maximum compensation level pursuant to paragraph 3 of subsection A of Section 17-116.2 of Title 70 of the Oklahoma Statutes and does not modify the maximum compensation level, or

(2) Forty-nine Thousand Dollars ($49,000.00), if a member employed by a comprehensive university makes the election authorized by subsection A of Section 4 of this act and payment of contributions is made as required by law, or

(3) the full amount of regular annual compensation if a member employed by an entity or institution within The Oklahoma State System of Higher Education, other than a comprehensive university, makes the election authorized by subsection B of Section 4 of this act and payment of contributions is made as required by law, plus

c. two percent (2%) of the member's salary upon which member contributions were made not to exceed the following amounts for members who, as of June 30, 1995, had elected to contribute upon compensation in excess of Twenty-five Thousand Dollars ($25,000.00):

(1) Forty-nine Thousand Dollars ($49,000.00) for service authorized and performed for a comprehensive university on or after July 1, 1996, but not later than June 30, 1997,

(2) Fifty-four Thousand Dollars ($54,000.00) for service authorized and performed for a comprehensive university on or after July 1, 1997, but not later than June 30, 1998,

(3) Fifty-nine Thousand Dollars ($59,000.00) for service authorized and performed for a comprehensive university on or after July 1, 1998, but not later than June 30, 2000,

(4) Sixty-four Thousand Dollars ($64,000.00) for service authorized and performed for a comprehensive university on or after July 1, 2000, but not later than June 30, 2001,

(5) Sixty-nine Thousand Dollars ($69,000.00) for service authorized and performed for a comprehensive university on or after July 1, 2001 , but not later than June 30, 2002,

(6) Seventy-four Thousand Dollars ($74,000.00) for service authorized and performed for a comprehensive university on or after July 1, 2002, but not later than June 30, 2003,

(7) Seventy-nine Thousand Dollars ($79,000.00) for service authorized and performed for a comprehensive university on or after July 1, 2003, but not later than June 30, 2004,

(8) Eighty-four Thousand Dollars ($84,000.00) for service authorized and performed for a comprehensive university on or after July 1, 2004, but not later than June 30, 2005,

(9) Eighty-nine Thousand Dollars ($89,000.00) for service authorized and performed for a comprehensive university on or after July 1, 2005, but not later than June 30, 2006, and

(10) Ninety-four Thousand Dollars ($94,000.00) for service authorized and performed for a comprehensive university on or after July 1, 2006, but not later than June 30, 2007, plus

d. two percent (2%) of the member's average salary upon which member contributions were made, multiplied by the number of the member's years of credited service authorized and performed for an employer other than a comprehensive university or for service performed for an employer other than an entity or institution within The Oklahoma State System of Higher Education on or after July 1, 1996, but not later than June 30, 2007, plus

e. two percent (2%) of the member's average salary upon which member contributions were made, multiplied by the number of the member's years of credited service authorized and performed for a comprehensive university on or after July 1, 1996, but not later than June 30, 2007, if the member terminates service with a comprehensive university and is subsequently re-employed by a comprehensive university, plus

f. two percent (2%) of the member's average salary upon which member contributions were made, multiplied by the number of the member's years of credited service authorized and performed after June 30, 2007.

3. If the member became a member or is eligible to become a member prior to July 1, 1995, and was eligible to elect to have a maximum compensation level in excess of Twenty-five Thousand Dollars ($25,000.00) and did not elect or elected not to have a maximum compensation level of Forty Thousand Dollars ($40,000.00) pursuant to paragraph 1 of subsection C of Section 17-116.2 of Title 70 of the Oklahoma Statutes or pursuant to subsection E of Section 17-116.2 of Title 70 of the Oklahoma Statutes, in an amount equal to:

a. two percent (2%) of the member's average salary upon which member contributions were made, not to exceed Twenty-five Thousand Dollars ($25,000.00), multiplied by the number of the member's years of credited service authorized and performed prior to July 1, 1995, plus any years of prior service authorized under this title, plus

b. two percent (2%) of the member's salary upon which member contributions were made, not to exceed the maximum compensation level in effect for the member for the period July 1, 1995, through June 30, 1996, which shall be:

(1) Twenty-seven Thousand Five Hundred Dollars ($27,500.00), if the member was subject to this maximum compensation level pursuant to paragraph 3 of subsection A of Section 17-116.2 of Title 70 of the Oklahoma Statutes and does not modify the maximum compensation level, or

(2) Thirty-two Thousand Five Hundred Dollars ($32,500.00) if a member employed by a comprehensive university makes the election authorized by subsection A of Section 4 of this act and payment of contributions is made as required by law, or

(3) the full amount of regular annual compensation if a member employed by an entity or institution within The Oklahoma State System of Higher Education, other than a comprehensive university, makes the election authorized by subsection B of Section 4 of this act and payment of contributions is made as required by law, plus

c. two percent (2%) of the member's salary upon which member contributions were made, not to exceed the following amounts for members who, as of June 30, 1995, had elected not to contribute upon compensation in excess of Twenty-five Thousand Dollars ($25,000.00):

(1) Thirty-two Thousand Five Hundred Dollars ($32,500.00) for service authorized and performed for a comprehensive university on or after July 1, 1996, but not later than June 30, 1997,

(2) Thirty-seven Thousand Five Hundred Dollars ($37,500.00) for service authorized and performed for a comprehensive university on or after July 1, 1997, but not later than June 30, 1998,

(3) Forty-two Thousand Five Hundred Dollars ($42,500.00) for service authorized and performed for a comprehensive university on or after July 1, 1998, but not later than June 30, 2000,

(4) Forty-seven Thousand Five Hundred Dollars ($47,500.00) for service authorized and performed for a comprehensive university on or after July 1, 2000, but not later than June 30, 2001,

(5) Fifty-two Thousand Five Hundred Dollars ($52,500.00) for service authorized and performed for a comprehensive university on or after July 1, 2001, but not later than June 30, 2002,

(6) Fifty-seven Thousand Five Hundred Dollars ($57,500.00) for service authorized and performed for a comprehensive university on or after July 1, 2002, but not later than June 30, 2003,

(7) Sixty-two Thousand Five Hundred Dollars ($62,500.00) for service authorized and performed for a comprehensive university on or after July 1, 2003, but not later than June 30, 2004,

(8) Sixty-seven Thousand Five Hundred Dollars ($67,500.00) for service authorized and performed for a comprehensive university on or after July 1, 2004, but not later than June 30, 2005,

(9) Seventy-two Thousand Five Hundred Dollars ($72,500.00) for service authorized and performed for a comprehensive university on or after July 1, 2005, but not later than June 30, 2006, and

(10) Seventy-seven Thousand Five Hundred Dollars ($77,500.00) for service authorized and performed for a comprehensive university on or after July 1, 2006, but not later than June 30, 2007, plus

d. two percent (2%) of the member's average salary upon which member contributions were made, multiplied by the number of the member's years of credited service authorized and performed for an employer other than a comprehensive university or for service performed for an employer other than an entity or institution within The Oklahoma State System of Higher Education on or after July 1, 1996, but not later than June 30, 2007, plus

e. two percent (2%) of the member's average salary upon which member contributions were made, multiplied by the number of the member's years of credited service authorized and performed for a comprehensive university on or after July 1, 1996, but not later than June 30, 2007, if the member terminates service with a comprehensive university and is subsequently re-employed by a comprehensive university, plus

f. two percent (2%) of the member's average salary upon which member contributions were made, multiplied by the number of the member's years of credited service authorized and performed after June 30, 2007. **(70-17-116.2B)**

Section 374.2.1. Education Employees Service Incentive Plan (EESIP).

A. As used in this section:

1. "Contribution deficit" means the amount of money computed for an eligible employee by multiplying the employee contribution rate in effect for any period of service performed on or after July 1, 1987, through June 30, 1995, multiplied by the amount of salary earned by the member in excess of the applicable maximum compensation level of the member for such period with interest at the rate of ten percent (10%) per year compounded annually; provided, that for the designated fiscal years prescribed by subparagraphs a and b of this paragraph, the contribution deficit payment shall be adjusted to:

a. fifty percent (50%) of the total amount of the computation otherwise prescribed by this paragraph for the fiscal year ending June 30, 2007,

b. seventy-five percent (75%) of the total amount of the computation otherwise prescribed by this paragraph for the fiscal year ending June 30, 2008, and

c. one hundred percent (100%) of the total amount of the computation otherwise prescribed by this paragraph for the fiscal year ending June 30, 2009, and for each fiscal year thereafter;

2. "Eligible employee" means a member of the System who has not retired prior to the effective date of this act and who has performed service at any time prior to June 30, 1995, and who fulfills the requirements of this act with respect to inclusion of pre-cap removal years of service in a retirement benefit computation and:

a. who has already reached a normal retirement age prior to the effective date of this act and has not retired prior to the effective date of this act,

b. who reaches a normal retirement age on or after the effective date of this act, and

c. who is employed by an institution within The Oklahoma State System of Higher Education that is not a comprehensive university or a regional institution offering a four-year degree program as designated or authorized by the Oklahoma State Regents for Higher Education;

3. "Maximum average salary amount" means:

a. Sixty Thousand Dollars ($60,000.00) regardless of any otherwise applicable maximum compensation level for the fiscal year ending June 30, 2007,

b. Eighty Thousand Dollars ($80,000.00) regardless of any otherwise applicable maximum compensation level for the fiscal year ending June 30, 2008, and

c. the full amount of the average salary without any limitation for the fiscal year ending June 30, 2009, and for each fiscal year thereafter;

4. "Maximum compensation level" means either:

a. Twenty-five Thousand Dollars ($25,000.00) if a member did not elect to make employee contributions on a higher salary amount for any pre-cap removal years of service, or

b. Forty Thousand Dollars ($40,000.00) if a member did elect to make employee contributions upon actual salary not in excess of such amount for any pre-cap removal years of service;

5. "Pre-cap removal service" means any service performed by an active member prior to June 30, 1995; and

6. "System" means the Teachers' Retirement System of Oklahoma;

B. Unless otherwise expressly provided by this section, any definition contained in Section 17-101 of Title 70 of the Oklahoma Statutes otherwise applicable to computation of benefits for retired members of the Teachers' Retirement System of Oklahoma shall have the same meaning for purposes of this section.

C. Effective July 1, 2006, any eligible member of the Teachers' Retirement System of Oklahoma, who, as of July 1, 2006, has already reached a normal retirement age or who on or after July 1, 2006, reaches a normal retirement age as defined by paragraph 24 of Section 17-101 of Title 70 of the Oklahoma Statutes, shall be eligible to have a retirement benefit computed as provided by this section. If a member is eligible for the benefit computation authorized by this section, the average salary used to compute the retirement benefit of the member shall be governed by the provisions of this section and such provisions shall govern in the event of conflict between this section and the provisions of Section 17-116.2 of Title 70 of the Oklahoma Statutes.

D. An eligible employee who performs service in the manner prescribed by subsection E of this section and who makes payment of the applicable contribution deficit amount may have a retirement benefit computed as otherwise authorized by Section 17-105 of Title 70 of the Oklahoma Statutes, but shall have such benefit computed without regard to any maximum compensation level that would otherwise be applicable to the compensation of the member for any period of pre-cap removal service.

E. In order to have retirement benefits computed as authorized by subsection C of this section, and in addition to the payment of the contribution deficit amount required by this section, in order to have any pre-cap removal service included in the retirement benefit computation of the member using the average salary earned during such period of participating service subject to the maximum average salary amount, the member shall be required to perform one (1) year of participating service on or after the date as of which the member reaches a normal retirement age, for each two (2) years of service performed prior to July 1, 1995. For purposes of this section, any year of service performed prior to the effective date of this act after a member reached a normal retirement age shall qualify for purposes of the retirement benefit computation authorized by this section.

F. One (1) year of participating service performed by an eligible member who, prior to the effective date of this act has reached a normal retirement age or, who on or after July 1, 2006, reaches a normal retirement age, shall result in the inclusion of the two (2) years of participating service immediately preceding July 1, 1995, in a retirement benefit computation using the average salary of the member, subject to the maximum average salary amount. For each additional year of participating service performed by the eligible member thereafter, whether such service has been performed prior to the effective date of this act or whether such service is performed on or after the effective date of this act, the two (2) next succeeding years of pre-cap removal service performed prior to the end of the preceding two-year period may be included in the benefit computation without regard to the maximum compensation level of the member that would otherwise be applicable to such pre-cap removal service.

G. The eligible member shall be required to make payment to the Teachers' Retirement System of Oklahoma of the contribution deficit amount for any year of service performed on or after July 1, 1987, but not later than June 30, 1995, as prescribed by subsections H through K of this section in order to have any years of pre-cap removal service included in the retirement benefit computation using the average salary of the member subject to the maximum average salary amount.

H. In order to have years of service included in the benefit computation using average salary subject to the maximum average salary amount, the member shall be required to make payment of the contribution deficit for the following years of service and in the sequence prescribed by subsection I of this section according to the adjustments required by subparagraphs a and b of paragraph 1 of subsection A of this section:

1. July 1, 1987, through June 30, 1988;

2. July 1, 1988, through June 30, 1989;

3. July 1, 1989, through June 30, 1990;

4. July 1, 1990, through June 30, 1991;

5. July 1, 1991, through June 30, 1992;

6. July 1, 1992, through June 30, 1993;

7. July 1, 1993, through June 30, 1994; and

8. July 1, 1994, through June 30, 1995.

I. For each year of service performed by the eligible member prior to the effective date of this act and after having reached a normal retirement age, or for each year of service performed by the member after reaching a normal retirement age on or after the effective date of this act, the member shall be required to make payment of the contribution deficit amount for each year of service beginning with the years described in paragraphs 7 and 8 of subsection H of this section. For each additional year of service performed by the eligible member after the normal retirement age of the member, the member shall make payment of the contribution deficit amount for each of the next two (2) years of service as described in:

1. Paragraphs 5 and 6 of subsection H of this section;

2. Paragraphs 3 and 4 of subsection H of this section; and

3. Paragraphs 1 and 2 of subsection H of this section.

J. After making payment of all required contribution deficit amounts for all periods of service described in paragraphs 1 through 8 of subsection H of this section, an eligible member who has performed any additional years of service after having reached a normal retirement age, or for each year of service performed by the member after reaching a normal retirement age on or after the effective date of this act, the member may then include any additional two-year period of service performed prior to July 1, 1987, using the average salary of the member, subject to the maximum average salary amount, in the retirement benefit computation for such years of service by performing one (1) additional year of service.

K. No contribution deficit payments shall be required of the eligible member with respect to years of service performed prior to July 1, 1987, if such years of service are included in the retirement benefit computation of the member using average salary as otherwise authorized by this section, subject to the maximum average salary amount.

L. An eligible member may make the payment of the contribution deficit amount required by this section at any time prior to the retirement of the member from the System; however, no years of pre-cap removal service for which full payment of the required contribution deficit has not been made pursuant to the requirements of this section may be included in the retirement benefit computation of the otherwise eligible member using the average salary of the member for such period, subject to the maximum average salary amount.

M. Any pre-cap removal years of service for which the required contribution deficit payment has not been made to the System shall only be included in a retirement benefit computation using the maximum compensation level in effect for the member at the time such years of service were performed.

N. All payments to the System for pre-cap removal service shall be made prior to the date as of which a member retires. No payments to the System for pre-cap removal service otherwise authorized by this section shall be made after a member retires from the System and begins to receive benefits.

O. Any eligible member who, prior to the effective date of this act, has not previously made an election for payment of employee contributions on a maximum compensation level of Twenty-five Thousand Dollars ($25,000.00) for pre-cap removal service may file an election with the System to make payment of the required contribution deficit amount pursuant to this section. Such an election shall be irrevocable.

P. No participating employer of the System shall make payment of any required contribution deficit amount on behalf of any otherwise eligible member, whether directly or indirectly, in order for the member to have retirement benefits computed according to the provisions of this section.

Q. No member of the System who has retired prior to July 1, 2006, shall be eligible to make any payments of the contribution deficit amount and no such member shall have the ability to have a retirement benefit recomputed as a result of the provisions of this section.

R. The additional retirement benefit attributable to the provisions of this section may be computed for members who retire on or after July 1, 2006, but prior to January 1, 2007, but the additional retirement benefit attributable to the provisions of this section shall not be payable until January 1, 2007. On and after January 1, 2007, the additional retirement benefit attributable to the provisions of this section shall be added to the retirement benefit amount of any member who retires on or after July 1, 2006, and prior to January 1, 2007, and such increased benefit amount shall be payable to the member or any beneficiary of the member as otherwise provided pursuant to the provisions of Section 17-101 of Title 70 of the Oklahoma Statutes in the same manner as other retirement benefits are payable. **(70-17-116.2C)**

Section 374.3. Increased Retirement Benefits - Members Retiring Prior to July 1, 1999.

A. Beginning July 1, 2000, a classified member who retired prior to July 1, 1999, who continues to receive benefits on or after July 1, 2000, shall have the member's retirement allowance calculated on the member's current average salary plus Five Hundred Dollars ($500.00).

B. Beginning July 1, 2000, a nonclassified member who retired prior to July 1, 1999, who continues to receive benefits on or after July 1, 2000, shall have the member's retirement allowance calculated on the member's current average salary plus Two Hundred Fifty Dollars ($250.00).

C. Beginning July 1, 2000, those individuals receiving benefits pursuant to subsection (3) of Section 17-105 of Title 70 of the Oklahoma Statutes whose benefits commenced prior to July 1, 1999, shall receive an increase in benefits of one and eight-tenths percent (1.8%). **(70-17-116.2)**

Section 375. Teachers Retirement Reserve Fund.

There is hereby created in the State Treasury a special fund which shall be designated the "Teachers' Retirement Reserve Fund". Said fund shall consist of such monies as the Legislature may transfer to such fund. The monies in said fund shall only be used to support or benefit public pension programs and shall be paid out pursuant to direction of the Legislature. **(70-17-116.6)**

Section 376. Supplemental Pension Benefits.

A. After the effective date of this act, before entering into any type of contract that creates an unfunded liability and is for the purpose of enhancing pension benefits for employees beyond the provisions of the Teachers' Retirement System of Oklahoma, a state institution of higher education, technology center school district, or public school district, unless otherwise provided by law, shall forward to the Office of the Attorney General a copy of the contract and a copy of an actuarial report indicating the amount of unfunded liability that would be created pursuant to the contract. The Attorney General shall review the contract to ensure that the contract conforms to state law. No such contract shall be signed by the education entity until the Attorney General approves the contract. Any such contract entered into without complying with the requirements of this section shall be void.

B. In order to make the Legislature and Governor more aware of the effect of unfunded pension benefits and other post-employment benefits on state finances, annual audits conducted pursuant to law on state institutions of higher education, technology center school districts, and school districts shall be prepared in accordance with appropriate accounting standards pertaining to unfunded pension benefits and other post-employment benefits. The State Regents for Higher Education, the State Board of Career and Technology Education and the State Board of Education, jointly, shall have the information pertaining to benefits compiled into an annual report that shall be distributed to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate. **(70-17-116.7)**

Section 377. Computation of Purchase Price for Service Credit.

A. The Board of Trustees shall adopt rules for computation of the purchase price for service credit. These rules shall be the purchase price for each year purchased on the actuarial cost of the incremental projected benefits to be purchased. The purchase price shall represent the present value of the incremental projected benefits discounted according to the member's age at the time of purchase. Incremental projected benefits shall be the difference between the projected benefits said member would receive without purchasing the service credit and the projected benefits after purchase of the service credit computed as of the earliest age at which the member would be able to retire. Said computation shall assume an unreduced benefit and be computed using interest and mortality assumptions consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation.

B. In the event that the member is unable to pay the purchase price provided for in this section by the due date, the Board of Trustees shall permit the members to amortize the purchase price over a period not to exceed sixty (60) months. Said payments shall be made by payroll deductions unless the Board of Trustees permits an alternate payment source. The amortization shall include interest in an amount not to exceed the actuarially assumed interest rate adopted by the Board of Trustees for investment earnings each year. Any member who ceases to make payment, terminates, retires or dies before completing the payments provided for in this section shall receive prorated service credit for only those payments made, unless the unpaid balance is paid by said member, his or her estate or successor in interest within six (6) months after said member's death, termination of employment or retirement, provided no retirement benefits shall be payable until the unpaid balance is paid, unless said member or beneficiary affirmatively waives the additional six-month period in which to pay the unpaid balance. The Board of Trustees shall promulgate such rules as are necessary to implement the provisions of this subsection. **(70-17-116.8)**

Section 378. Credit for Certain Teaching Service - Prior to the State-Supported Kindergarten.

Any member of the Teachers' Retirement System of Oklahoma, who taught kindergarten on public school property prior to the state-supported kindergarten, and who subsequently taught in the public schools and has met the necessary qualifications, may receive credit in the System for such teaching service by, prior to January 1, 1991, making back contributions of ten percent (10%) of salary plus ten percent (10%) interest to the System as required by the Board of Trustees. Effective January 1, 1991, to receive the credit in the System for such teaching service, the member shall pay the amount determined by the Board of Trustees pursuant to Section 30 of this act. **(70-17-116.9)**

Section 379. Post-Retirement Employment with a Public School.

A. Subject to the requirements of Section 6-101.2 of this title and any other applicable requirements of law, a member may enter into post-retirement employment with a public school of Oklahoma and still receive monthly retirement benefits subject to the following limitations:

1. A retired member is not eligible to be employed by the public schools of Oklahoma, in any capacity, for sixty (60) calendar days between the retiree's last day of pre-retirement public-education employment and any post-retirement public-education employment. For purposes of this section, the term "last day of pre-retirement employment" shall mean the last day the employee is required to be physically present on the job to complete the terms of the employment contract or agreement. Employment under any conditions during this time, volunteer services for the purpose of obtaining a paid position at a later date, or payment at a later time for services performed during this time period shall cause the forfeiture of all retirement benefits received during the period;

2. Unless otherwise provided in paragraph 3 of this subsection, earnings from the public schools may not exceed one-half (½) of the member's final average salary used in computing retirement benefits, or the Earnings Limitation for employees allowed by the Social Security Administration, whichever is less. For retired members under the age of sixty-two (62) years, the limit on allowed earnings from the public schools of Oklahoma for employment for the performance of duties ordinarily performed by classified or nonclassified personnel shall be the lesser of Fifteen Thousand Dollars ($15,000.00) or one-half (½) of the member's final average salary used in computing retirement benefits unless the earnings limitation allowed by the Social Security Administration would be greater than Fifteen Thousand Dollars ($15,000.00). For retired members sixty-two (62) years of age or older the limit on allowed earnings from the public schools of Oklahoma for the performance of duties ordinarily performed by classified or nonclassified personnel shall be the lesser of Thirty Thousand Dollars ($30,000.00) or one-half (½) of the member's final average salary used in computing retirement benefits. For purposes of this paragraph, the following shall apply:

a. earnings shall mean "regular annual compensation" as defined in paragraph (25) of Section 17-101 of this title, and shall include any payment by a public school for services rendered by a retired member who is employed for any purpose whatsoever. Supplemental retirement payments paid by a former public school employer pursuant to subsection 9 of Section 17-105 of this title or other state law shall not be considered as earnings,

b. the Earnings Limitation for employees allowed by the Social Security Administration to workers between the age of sixty-two (62) years and sixty-five (65) years shall apply to retired members below the age of sixty-two (62) years,

c. the limit on allowed earnings from the public schools shall be automatically adjusted effective the first day of January of each year to reflect the current Earnings Limitation for employees as determined from time to time by the Social Security Administration,

d. earnings in excess of the maximum limit on allowed earnings from public schools of Oklahoma shall result in a loss of future retirement benefits for the year the post-retirement employment was performed of One Dollar ($1.00) for each One Dollar ($1.00) earned over the maximum allowed earnings amount,

e. for those members age seventy (70) years and over, the earnings in excess of the maximum limit allowed earnings from public schools of Oklahoma shall be one-half (½) the member's final average salary used in computing retirement benefits. However, any retired member receiving benefits from the Retirement System who reached age seventy (70) years prior to July 1, 1991, shall not be restricted by the earnings limits pursuant to this subparagraph until January 1, 1994. To qualify for the provisions of this subparagraph, the member must be employed less than one-half (½) time compared to other full-time employees in similar positions;

3. Notwithstanding paragraph 2 of this subsection, a retired classified or nonclassified member who has been retired for thirty-six (36) or more months and who is employed by a public school to perform duties ordinarily performed by classified or nonclassified personnel shall be able to receive annualized earnings from the public school with no reduction in retirement benefits regardless of the amount of annualized earnings; and

4. A member shall be considered to be employed by a school district to perform the duties ordinarily performed by classified or nonclassified personnel if the member is hired by the school district in the member's individual capacity to perform the duties or if the member performs the duties through employment with a proprietorship, partnership, corporation, limited liability company or partnership, or any other business structure that has agreed or contracted to provide the services to the school district.

B. A public school district that employs a retired member shall be required to make contributions to the System for the retired member in an amount as required in Section 17-108.1 and in paragraph 3 of subsection B of Section 17-116.2 of this title.

C. For purposes of this section, post-retirement employment of less than one thousand (1,000) hours per year with the Governor, the State Senate, the House of Representatives or the Legislative Service Bureau shall not be considered as post-retirement employment with a public school of Oklahoma.

D. The Board of Trustees of the Teachers' Retirement System of Oklahoma shall promulgate such rules as are necessary to implement the provisions of this section.

E. A member who has entered into post-retirement employment with a participating employer of the Teachers' Retirement System of Oklahoma must fully comply with all the provisions of the rules promulgated by the Board of Trustees pursuant to this section in order to continue receiving his or her monthly retirement benefit. **(70-17-116.10)**

Note: Amended by SB 891, Sec. 1 of the 2011 Reg. Sess. Effective July 1, 2011.

Section 379.1. (Omitted)

Section 379.2. Increased Retirement Benefits.

A. Beginning July 1, 1998, a classified member who retired prior to July 1, 1997, shall have the member's retirement allowance calculated on the member's current average salary plus One Thousand Four Hundred Dollars ($1,400.00).

B. Beginning July 1, 1998, a nonclassified member who retired prior to July 1, 1997, shall have the member's retirement allowance calculated on the member's current average salary plus Seven Hundred Dollars ($700.00).

C. Beginning July 1, 1998, those individuals receiving benefits pursuant to subsection (3) of Section 17-105 of this title whose benefits commenced prior to July 1, 1997, shall receive an increase in benefits of five and four-tenths percent (5.4%). **(70-17-116.13)**

Section 379.3. (Omitted)

Section 379.4. Prior Service Credit for Adjunct Professors.

Effective July 1, 2000, a member of the Teachers' Retirement System of Oklahoma who was employed in an adjunct position in an institution under The Oklahoma State System of Higher Education prior to becoming a member of the System, may purchase a maximum of five (5) years of credit for such employment, pursuant to this section. One (1) year of service credit may be purchased for any school year in which the member worked eighteen (18) credit hours or more in such an adjunct position. The purchase of service credit shall be made pursuant to Section 17-116.8 of Title 70 of the Oklahoma Statutes and shall be considered contributing service for purposes of vesting and retirement. The Board of Trustees shall promulgate such rules as are necessary to implement the provisions of this section. **(70-17-116.16)**

Section 379.5 Benefit Calculations and Increase.

A. Beginning July 1, 2000, a classified member who retired prior to July 1, 1999, who continues to receive benefits on or after July 1, 2000, shall have the member's retirement allowance calculated on the member's current average salary plus Five Hundred Dollars ($500.00).

B. Beginning July 1, 2000, a nonclassified member who retired prior to July 1, 1999, who continues to receive benefits on or after July 1, 2000, shall have the member's retirement allowance calculated on the member's current average salary plus Two Hundred Fifty Dollars ($250.00).

C. Beginning July 1, 2000, those individuals receiving benefits pursuant to subsection (3) of Section 17-105 of Title 70 of the Oklahoma Statutes whose benefits commenced prior to July 1, 1999, shall receive an increase in benefits of one and eight-tenths percent (1.8%). **(70-17-116.17)**

Section 379.6. Increased Retirement Benefits.

A. Any person receiving retirement benefits from the Teachers' Retirement System of Oklahoma as of June 30, 2001, who continues to receive benefits on or after July 1, 2002, shall, beginning in July 2002, receive an increase in retirement benefits equal to three percent (3%).

B. Such persons who are otherwise eligible for the benefit increase in subsection A of this section, who retired from the system with thirty (30) years of credited service, shall receive, in lieu of the benefit increase in subsection A of this section, an increase in retirement benefits equal to four percent (4%) beginning in July 2002. **(70-17-116.18)**

Section 379.7. Increased Retirement Benefits.

A. Beginning July 1, 2004, any person receiving benefits from the Teacher's Retirement System of Oklahoma as of June 30, 2003, who continues to receive benefits on or after July 1, 2004, shall receive a percentage increase in said benefits on July 1, 2004, as follows:

Years of Service of the Retired Member	Monthly Benefit as of June 30, 2004	Benefit Increase
20 years or more	Less than $1,500.00	4.5%
	$1,500.00 to $2,500.00	4.0%
	Over $2,500.00	3.5%
15 to 19 years	Less than $1,000.00	4.0%
	$1,000.00 to $2,000.00	3.5%
	Greater than $2,000.00	3.0%
Less than 15 years	Less than $801.00	3.5%
	$801.00 to $1,499.99	3.0%
	$1,500.00 or greater	2.5%

B. Beginning in July 2004, those individuals receiving benefits pursuant to subsection (3) of Section 17-105 of Title 70 of the Oklahoma Statutes whose benefits commenced prior to July 1, 2003, shall receive an increase in benefits of four percent (4%). **(70-17-116.19)**

Section 379.8. Increased Retirement Benefits.

A. Any person receiving benefits from the Teachers' Retirement System of Oklahoma as of June 30, 2005, other than those benefits specified in subsection B of this section, who continues to receive benefits on or after July 1, 2006, shall receive a two-percent increase in said benefits beginning in July 2006.

B. Any person receiving benefits pursuant to subsection (3) of Section 17-105 of Title 70 of the Oklahoma Statutes whose benefits commenced prior to July 1, 2005, and who continues to receive benefits on or after July 1, 2006, shall receive a two-percent increase in said benefits beginning in July 2006. **(70-17-116.20**

Section 379.9. Increased Retirement Benefits.

A. Any person receiving benefits from the Teachers' Retirement System of Oklahoma as of June 30, 2007, other than those benefits specified in subsection B of this section, who continues to receive benefits on or after July 1, 2008, shall receive a two-percent increase in said benefits beginning in July 2008.

B. Any person receiving benefits pursuant to subsection (3) of Section 17-105 of Title 70 of the Oklahoma Statutes whose benefits commenced prior to July 1, 2007, and who continues to receive benefits on or after July 1, 2008, shall receive a two-percent increase in said benefits beginning in July 2008. **(70-17-116.21)**

Section 380. Contribution Deposit Deadline - Penalty.

The employer of each member shall submit all required school reports and all employer and employee contributions of each member due the Retirement System for payroll periods ending during the calendar month within ten (10) days of the last day of each calendar month. Any required school reports and employer and employee contribution amounts not submitted to the Retirement System after thirty (30) days from the end of the payroll month shall be subject to a monthly late charge of one and one-half percent (1 ½%) of the unpaid balance to be paid by the employer to the Retirement System compounding monthly for each month payment is not received. **(70-17-120)**

Note: Amended by HB 1002, Sec. 2 of the 2011 Reg. Sess.

Section 380.1. Deferred Savings Incentive Plan.

A. Effective July 1, 1999, for each active contributing member of the Teachers' Retirement System of Oklahoma, who is making contributions of at least Twenty-five Dollars ($25.00) per month to a plan account maintained by the Teachers' Retirement System of Oklahoma pursuant to Section 403(b) of Title 26 of the United States Code, 26 U.S.C. Section 403(b), the Teachers' Retirement System shall pay each month from funds appropriated to the Oklahoma Teachers' Deferred Savings Incentive Plan Fund created pursuant to this section the sum of Twenty-five Dollars ($25.00) to a plan established pursuant to the Internal Revenue Code, Section 401(a), for the benefit of the participant.

B. If monies in the Oklahoma Teachers' Deferred Savings Incentive Plan Fund are insufficient to fully fund the contributions in any month, payments shall be suspended until such time as sufficient monies are available.

C. The Teachers' Retirement System shall be responsible for establishing rules and plan documents for administration of the contributions authorized by this section. Funds so credited shall be held and invested in the same manner as funds managed in accounts of members contributing to an account established pursuant to Section 403(b) of the Internal Revenue Code of 1986, as amended.

D. There is hereby created in the State Treasury a revolving fund to be designated the "Oklahoma Teachers' Deferred Savings Incentive Plan Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies the Legislature may appropriate or transfer to the fund and any monies contributed for the fund from any other sources, public or private. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Teachers' Retirement System of Oklahoma for the matching of deferred compensation contributions pursuant to this section and in accordance with rules promulgated by the Teachers' Retirement System of Oklahoma. Expenditures from the fund shall be made by warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment. **(70-17-121)**

Section 380.2. Retired Teachers' Organization.

When a member of the Teachers' Retirement System of Oklahoma makes an application to retire, the System shall provide to such member an application to participate in a retired teachers' organization along with a form allowing the member to elect to have annual membership dues in a retired teachers' organization prorated and authorizing the System to withhold such dues monthly from the member's retirement benefits. Any retired teachers' organization which wants to participate, pursuant to this section, or to participate in a general mailing to all retired educators, with the approval of the Board of Trustees of the Teachers' Retirement System, shall provide to the System and pay for the cost, including postage costs if required by the Teachers' Retirement System, of printed materials and of the applications to be a member of the organization and the forms authorizing the System to withhold membership dues of the organization. The Board of Trustees shall approve the format and content of the authorization to make sure it complies with all relevant legal requirements. The System shall not be held responsible or liable for not providing the application to be a member of a participating retired teachers' organization or the authorization form if such organization does not timely provide to the System such materials and applications and approved authorization forms in sufficient quantities to meet the retirement application demands of the retiring members. **(70-17-122)**

Section 380.3. Retired Teachers' Organization - Minimum Membership Required.

To qualify as a retired teachers' organization pursuant to Section 17-122 of this title, the organization shall be primarily organized for the purpose of representing the interests of retired teachers in this state and providing member benefits. **(70-17-122.1)**

Section 381. Declaration of Legislative Intent, Policies and Principles.

The Legislature hereby declares that this act is passed for the general improvement of the public schools in the State of Oklahoma; to provide the best possible educational opportunities for every child in Oklahoma; and to have a more beneficial use of public funds expended for education; and this act shall be liberally construed to attain these goals within the purview of the following principles and policies:

1. The education of our children is more than the performance of a duty or act of love. It is these things and also the highest expression of enlightened self-interest by the people of Oklahoma. Education is our finest investment.

2. The system of public schools should be designed to strengthen and encourage local responsibility for control of public education. Local school districts should be so organized, financed and directed that they can provide full educational opportunities for all children. The maximum public autonomy and responsibility for public education should remain with the local school districts and the patrons of such districts.

3. It is the responsibility of the state on behalf of the people of Oklahoma to establish, maintain, and continually improve the public schools of Oklahoma. In furtherance of this responsibility, the people of Oklahoma through the state have the responsibility to support financially the public schools.

4. Effective local control requires that local school districts contribute to the support of school budgets in proportion to their respective abilities.

5. The system of public school support should assure that state and local funds are adequate for the support of a realistic foundation program. It is unrealistic and unfair to the children of the less wealthy districts to provide less state support than is necessary for full educational opportunities.

6. The system of public school support should encourage local school districts to provide and support improved educational programs.

7. The system of public school support should make provisions for the apportionment of state funds to local school districts on a strictly objective basis that can be computed as well by the local districts as by the state.

8. The system of public school support should effect a partnership between the state and each local district, with each participating in accordance with its relative ability. The respective abilities should be combined to provide a financial plan between the state and the local school district that will assure full educational opportunities for every child in Oklahoma.

9. State support should be extended to all local districts regardless of wealth, for this not only develops a sense of broader responsibility, but also creates flexibility tax wise permitting the exercise of local initiative. State support should, to assure equal educational opportunity, provide for as large a measure of equalization as possible among districts. The taxing power of the state should be utilized to raise the level of educational opportunity in the financially weakest districts of the state.

10. The system of public school support should provide for an equitable system of state and local sharing in the foundation program. The degree of local sharing should be based, as nearly as possible, on the true ability of the local district, so that each may contribute uniformly to the foundation program. **(70-18-101)**

Section 382. (Omitted)

Section 383. Appropriations.

There shall be apportioned and disbursed annually by the State Board of Education, from appropriations made by the Legislature for this purpose and from funds derived from other sources provided by law for this purpose, to the several school districts of the state, such sums of money as each school district may be qualified to receive under the provisions of this article. The methods of apportionment and disbursements contained herein shall remain in force until the same are amended or repealed by the Legislature. The State Board of Education will furnish the Legislature each year the recommended use of any new educational funds, listing priorities and percentage of new funds recommended for each priority item listed. **(70-18-103)**

Section 384. Repealed.

Section 385. Purpose of Funds - Federal Funds.

A. The funds apportioned and disbursed to the several school districts of the state shall be for the purpose of aiding each school district receiving the same to finance its school budget for each fiscal year. The State Board of Education shall notify the county clerk, the board of education, superintendent of each school district and the school district treasurer of the tentative amount said district is to receive from the funds apportioned under the provisions of this article and disbursed according to the provisions hereof. After such allocation of State Aid has been made by the State Board

of Education and certified to the treasurer of the school district and district superintendent of schools, such aid may be included as probable income by the board of education in its Estimate of Needs and Financial Statement as submitted to the county excise board, and said excise board shall include such amount in the approved appropriations, and in addition thereto any federal aid certified or allocated by the State Board of Education shall be included in the appropriation made by the excise board if requested by the board of education; provided, no such federal aid estimate shall be used in any way to reduce the State Foundation Aid or Incentive Aid for such school district or sustain a protest for the reduction of a tax levy. If such allocation of aid is not included in the board of education's estimate of needs, it shall be added by the county clerk to the items of appropriation designated by the board of education of the school district. Funds received under the provisions of this article shall be deposited in the general fund of such school district. Provided, funds received from the federal government for current expense purposes shall likewise be added to the appropriation of the general fund if so designated by the board of education of such school district. Provided, further, that the board of education of a school district may enter into agreements with federal agencies for educational projects and programs to be maintained in such districts; and federal funds received by the district in pursuance thereof shall, consistent with the agreement and requirements of the federal agency, be kept, administered and disbursed in such manner as may be prescribed by rules and regulations of the board of education.

B. If the State Board of Education should ascertain that allocation of State Aid to any school district has so changed as to reduce its State Aid, then the State Board of Education shall forthwith notify the district superintendent, the clerk of the board of education, and the treasurer thereof, as to the amount of reduction in the allocation of State Aid. If there has been an overpayment the same shall be returned to the State Treasurer and credited to a refund account which shall be available for further payment of State Aid. Whenever it becomes necessary for a school district to refund any overpayment of monies previously received, the school district shall issue such warrant against a properly approved encumbrance in the manner provided by law. Such claim or encumbrance shall be coded as a refund of prior revenue and paid from the current expense appropriation of the general fund or such other fund or account from which such refund may properly be paid by the school district. **(70-18-104)**

Section 386. Director of State Finance - Copy of Apportionments.

The State Board of Education shall furnish the director of State Finance with a copy of the apportionments made from the funds appropriated for each fiscal year to each of the several school districts of the state, and warrants shall be drawn by the State Treasurer against appropriations for each fiscal year in accordance with such apportionments only upon the order of the State Board of Education through the Director of State Finance. The warrants for the payments to the several school districts of any county shall be forwarded by the State Board of Education through the Director of State Finance directly to the treasurer of each school district. **(70-18-105)**

Section 387. Definitions.

As used in this title:

1. "Average Daily Attendance" (ADA) means the legal average number of pupils, early childhood education programs through grade twelve, in a school district during a school year as determined pursuant to the provisions of Section 18-111 of this title. A day of school for early childhood education programs and kindergarten shall be at least two and one-half (2 ½) hours and, for early childhood education, may be six (6) hours.

2. "Average Daily Membership" (ADM) means the average number of pupils present and absent in a school district during a school year. Average Daily Membership shall be calculated by dividing the sum of the pupil's total days present and a total days absent by the number of days taught. Provided, a pupil who has been absent without excuse ten (10) consecutive days shall be taken off the roll beginning the eleventh day and thereafter shall not be considered in a district's average daily membership calculation until the pupil is placed on the roll in the district. For the purpose of this paragraph, consecutive days means days for which enrollment is recorded.

3. "Total Adjusted Assessed Valuation" means the sum of public service property assessed valuation, personal property assessed valuation and real property assessed valuation as adjusted pursuant to the provisions of Section 18-109.1 of this title.

4. "Eighty-five percent (85%) of the maximum allowable", for the purpose of assessing class size penalty pursuant to Sections 18-113.1 and 18-113.2 of this title, means eighty-five percent (85%) of ten percent (10%) of the preceding year's net assessed valuation of a school district. The calculation of indebtedness as provided for in paragraph a of

subsection G of Section 18-113.1 and subparagraph a of paragraph 4 of subsection A of Section 18-113.2 of this title shall include the outstanding principal amount of bonds issued by the school district plus the principal amount of any bonds authorized by a vote of the people for issuance but not yet issued by the school district. **(70-18-107)**

Section 388. Certain Exempt Property to be Included in Assessed Valuation.

Except as provided for in subsection D of Section 18-200 of this title, for the purpose of determining the financial support to school districts through the State Aid Formula, the assessed valuation of a school district shall include the total valuation of property exempt from taxation by virtue of Section 6B of Article X of the Oklahoma Constitution as approved for reimbursement by the Oklahoma Tax Commission pursuant to the provisions of Section 193 of Title 62 of the Oklahoma Statutes. **(70-18-107.1)**

Section 389. Kindergarten.

A. It is the intent of the Legislature to provide a free public kindergarten for every five-year-old child in this state.

B. Each day during which a child attends a kindergarten for two and one-half (2 1/2) hours or more shall be counted as one hundred percent (100%) of one (1) day of average daily attendance. Each day a kindergarten student is on the membership roll in a school district shall be counted as one hundred percent (100%) of one (1) day of average daily membership.

C. It shall be the duty of every school district in this state to provide and offer kindergarten free of tuition for every child residing in the district who attains the age of five (5) years on or before the first day of September during the school year such kindergarten is offered. The duty to provide and offer kindergarten may be satisfied by transferring kindergarten children to other school districts which accept them and provide kindergarten for such children, or by contracting for classroom space with a licensed public or licensed private child care provider based upon selection criteria established by the district.

D. A kindergarten program may be offered jointly by school districts that have formed interlocal cooperative agreements pursuant to Section 5-117b of this title.

E. Beginning with the 2013-2014 school year, it shall be the duty of every school district in this state to provide and offer a full six-hour day of kindergarten free of tuition for every child residing in the district who attains the age of five (5) years on or before the first day of September during the school year kindergarten is offered. The duty to provide and offer kindergarten may be satisfied by intra-district transfer to a school offering full-day kindergarten, by transferring kindergarten children to other school districts which will accept them and can provide kindergarten for such children, or by contracting for classroom space with a licensed public or licensed private child care provider based upon selection criteria established by the district. A school district shall be exempt from the provisions of this subsection if the school district has voted indebtedness through the issuance of bonds or approval by voters of issuance of new bonds for more than eighty-five percent (85%) of the maximum allowable, pursuant to the provisions of Section 26 of Article X of the Oklahoma Constitution, at any time within the previous five (5) years.

F. The requirement to attend kindergarten provided in Section 10-105 of this title may be satisfied by attendance in either a half-day or full-day program. Membership in a kindergarten for either two and one-half (2 ½) hours or six (6) hours per school day shall be counted as one (1) day for average daily membership purposes. For purposes of State Aid, the pupil grade level weight for a two-and-one-half-hour day of kindergarten shall be 1.3, and for a six-hour full day of kindergarten shall be 1.5. **(70-18-108)**

Note: Amended by SB 260, Sec. 1 of the 2011 Reg. Sess.

Section 390. Real Property Valuations - Assessment Ratios.

The Legislature hereby declares, for the purpose of financial support to school districts through the State Aid Formula, that greater equalization of State Aid to school districts will be attained by the following procedure:

1. For the 1989-90 school year, the real property portion of the valuations for those school districts in counties having an assessment ratio in excess of twelve percent (12%) shall be computed at a twelve percent (12%) assessment ratio to determine chargeable valuations. Beginning with the 1990-91 school year, the real property portion of the

valuations for those school districts in counties having an assessment ratio in excess of eleven percent (11%) shall be computed at an eleven percent (11%) assessment ratio to determine chargeable valuations. Beginning with the 1991-92 school year, the commercial personal and agricultural personal property portion of the valuations for those school districts in counties having an assessment ratio in excess of eleven percent (11%) shall be computed at an eleven percent (11%) assessment ratio to determine chargeable valuations. The Oklahoma Tax Commission shall supply to the State Department of Education the information necessary to carry out the provisions of this paragraph.

2. The real property portions of the valuations for those school districts in counties having an actual assessment ratio of less than twelve percent (12%) shall be computed at the actual assessment ratio in effect for the county as determined by the Oklahoma Tax Commission in order to determine chargeable valuations for calculating State Aid to such district if such ratio is at least nine percent (9%) and the county is certified by the Oklahoma Tax Commission to have a verifiable reevaluation program using property identification cards for the applicable assessment year.

3. The real property portion of the valuations for those school districts in counties which have an actual assessment ratio of less than twelve percent (12%) and which are not certified by the Oklahoma Tax Commission to have a verifiable reevaluation program using property identification cards shall be computed at a twelve percent (12%) assessment ratio to determine chargeable valuations. For each school year, the actual assessment ratio shall be the assessment ratio recommended by the Oklahoma Tax Commission and certified by the State Board of Equalization for the applicable assessment year.

4. The Oklahoma Tax Commission shall certify by October 1, for each applicable assessment year, to the State Superintendent of Public Instruction those counties which have reevaluation programs using property identification cards. The Oklahoma Tax Commission shall, as soon as practicable, certify to the State Superintendent of Public Instruction and the district attorney for the applicable county the date as of which a county implements a verifiable reevaluation program using property identification cards after October 1 of any year.

5. Any county assessor who fails to have an approved reevaluation program using property identification cards shall pay a penalty in the amount of One Hundred Dollars ($100.00) for each calendar day beyond October 1 of any year that the county does not have a verifiable reevaluation program using property identification cards. The penalty shall be imposed for each calendar day on and after October 2 of each year until the county implements a verifiable reevaluation program using property identification cards; provided, that such penalty shall be collected from any county assessor of a county which did not have a verifiable reevaluation program using property identification cards as of October 1, 1985, for each day from and after July 1, 1986, that the applicable county does not have a verifiable reevaluation program using property identification cards.

6. Upon receipt of certification by the Oklahoma Tax Commission of the counties having approved reevaluation programs, the State Superintendent of Public Instruction shall cause notice to be mailed by return receipt mail to the county assessor, the district attorney, the county treasurer and the superintendent of each school district of any county not included in the certification.

7. The district attorney, upon receipt of the notice provided for in paragraph 6 of this section, shall immediately institute an action to collect the One Hundred Dollar ($100.00) penalty for each day that the county does not have a verifiable reevaluation program using property identification cards. The district attorney shall be authorized to institute a single action in district court pursuant to which any amount of penalty may be collected for any day the assessor fails to implement the reevaluation program using property identification cards. Any amount of such fine collected shall be deposited in a special account within the county general fund. Such amounts shall be apportioned to the school districts of the county on basis of the preceding year's average daily attendance.

8. The district attorney shall initiate action for removal of the county assessor from office for malfeasance if the county assessor has not instituted a verifiable reevaluation program using property identification cards within thirty (30) days after the district attorney receives notice from the State Superintendent of Public Instruction. Initiation of an action for the removal of the county assessor for malfeasance as required by this section is a mandatory duty of the office of the district attorney. If the district attorney fails to initiate an action within forty (40) days after receipt of the notice from the State Superintendent of Public Instruction, and the county assessor has not implemented a verifiable reevaluation program using property identification cards, the district attorney shall pay a penalty of One Hundred Dollars ($100.00) for each day that an action could have been filed for the removal of the county assessor and such action has not been filed or until the county assessor implements the reevaluation program using property identification cards. The Attorney General shall initiate an action to collect the penalty from the district attorney pursuant to the authority of Section 18b

of Title 74 of the Oklahoma Statutes. All penalties collected pursuant to the provisions of this paragraph shall be deposited in the special account within the county general fund and apportioned to the school districts of the county on the basis of the preceding year's average daily attendance.

9. The notice to the superintendents of the various school districts from the State Superintendent of Public Instruction shall state that the State Aid formula funds computed for such districts based upon the actual assessment ratio valuations in excess of the amount computed upon twelve percent (12%) assessment ratio valuations shall be withheld from distribution to the school district until the office of the county assessor has complied with the requirement of a verifiable reevaluation program using property identification cards. **(70-18-109.1)**

Counties may not hire anyone to assist in the reassessment of property which has been grossly undervalued due to false representations or concealment, but county assessors may use outside appraisers as part of their comprehensive visual inspection program. *August 5, 2004 (AG Op. No. 04-24)*

Statute does not unconstitutionally interfere with State Board of Equalization executive functions. *April 13, 1983* (*AG Op. No. 83-44)*

Section 391. Definitions.

A. As used in Sections 18-201 and 18-201.1 of this title:

1. "Vision impaired" means a visual impairment which, even with correction, adversely affects a child's educational performance;

2. "Children with learning disabilities" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, written or spoken, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or to do mathematical calculations. The term includes such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia;

3. "Deaf or hard-of-hearing" means a hearing impairment, whether permanent or fluctuating, which adversely affects a child's educational performance;

4. "Economically disadvantaged" means all children who qualify for free or reduced lunches;

5. "Educable mentally handicapped" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the development period, which adversely affects a child's educational performance;

6. "Emotionally disturbed" means emotional problems preventing adjustment in regular class including:

a. an inability to learn which cannot be explained by intellectual, sensory or health factors,

b. an inability to build or maintain satisfactory interpersonal relationships with peers and teachers,

c. inappropriate types of behavior or feelings under normal circumstances,

d. a general pervasive mood of unhappiness or depression, or

e. a tendency to develop physical symptoms or fears associated with personal or school problems;

The term includes children who are schizophrenic. The term does not include children who are socially maladjusted, unless it is determined that they are seriously emotionally disturbed;

7. "Gifted" means identified students as outlined in Section 1210.301 of this title;

8. "Multiple handicapped" means concomitant impairments, such as mentally retarded/blind, mentally retarded/orthopedically impaired, and other combinations, the combination of which causes such severe educational problems that they cannot be accommodated in special education programs solely for one of the impairments. The term does not include deaf/blind children;

9. "Physically handicapped" means a severe orthopedic impairment or an autistic condition which is manifested by severe communication and other developmental and educational problems; or having limited strength, vitality or alertness, due to chronic or acute health problems such as a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes, which adversely affects a child's educational performance.

The term includes impairments caused by congenital anomaly, and impairments from other causes;

10. "Speech impaired" means a communication disorder, such as stuttering, impaired articulation, language impairment, or voice impairment, which adversely affects a child's educational performance;

11. "Trainable mentally handicapped" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the development period, which adversely affects a child's educational performance;

12. "Deaf/Blind" means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that they cannot be accommodated in special education programs solely for deaf or blind children;

13. "Bilingual" means those students who have limited English speaking abilities or who come from homes where English is not the dominant language as reported on the current year application for accreditation;

14. "Special Education Summer Program" means those summer school programs which school districts may provide for children who are severely or profoundly multiple-handicapped if their individualized education program states the need for a continuing educational experience to prevent loss of educational achievement or basic life skills. Any school district receiving funds for such special education summer programs shall provide services as provided in Section 13-101 of this title; and

15. "Optional Extended School Year Program" means the program defined in Section 1-109.1 of this title.

B. The State Board of Education is hereby authorized to modify and redefine by rule the definitions set out in this section whenever such modification is required to receive federal assistance therefor. **(70-18-109.5)**

Section 392. Pupil Grade Level Weights - District Weights - Pupil Category Weights.

A. The State Board of Education shall review the pupil grade level weights, district weights and pupil category weights which form a part of the school funding formula using the results of the educational cost accounting system now in place and shall make recommendations for revisions to such weights to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the senate on or before April 1, 1991.

B. The recommendations of the State Board of Education required by subsection A of this section shall take into consideration the findings and recommendations of the report of the Special Joint Committee on School Finance, created pursuant to Section 45 of Enrolled House Bill No. 1035 of the 1st Session of the 40th Oklahoma Legislature, in addition to any other information the Board determines relevant to such review. The Board is directed to pay particular attention to a review of the pupil category weights, and should determine whether the creation of other weights is warranted.

C. In addition to the review and recommendations required by subsection A of this section, the State Board of Education shall review that part of the State Aid formula which provides for a midterm supplement in State Aid to school districts. The Board shall make recommendations in a report regarding revisions to or elimination of the provisions for such supplement to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate on or before September 1, 1990. On or before September 1, 1990, the Board shall send a copy of the report to the administrator of each school site in the state. **(70-18-109.6)**

Section 393. Creation of Common School Fund.

A. Pursuant to Section 12a of Article X of the Oklahoma Constitution, there is hereby created in the State Treasury a fund to be designated as the "Common School Fund". Monies from this fund shall be apportioned by the State

Treasurer for distribution as provided for by the Legislature through the State Aid Formula for the benefit of the common schools of this state.

B. Beginning January 1, 1991, taxes collected on public service corporation property for the benefit of the common schools pursuant to paragraph 2 of subsection B of Section 12a of Article X of the Oklahoma Constitution, except that portion of such taxes collected for the benefit of school districts in this state pursuant to Section 26 of Article X of the Oklahoma Constitution and that portion of such taxes collected for purposes of raising money for a building fund for a school district pursuant to Section 9 of Article X of the Oklahoma Constitution, and taxes collected on locally assessed commercial/industrial real and personal property for the benefit of the common schools pursuant to paragraph 2 of subsection C of Section 12a of Article X of the Oklahoma Constitution, except that portion of such taxes collected for the benefit of school districts in this state pursuant to Section 26 of Article X of the Oklahoma Constitution and that portion of such taxes collected for purposes of raising money for a building fund for a school district pursuant to Section 9 of Article X of the Oklahoma Constitution, together with any revenues accruing to it pursuant to law and any money appropriated to it by the Legislature shall be paid to the State Treasurer to be placed in the Common School Fund.

C. Beginning July 1, 1991, gross production taxes collected on oil and gas which are apportioned for common school purposes pursuant to the provisions of Section 1004 of Title 68 of the Oklahoma Statutes, motor vehicle taxes and fees collected pursuant to the Oklahoma Vehicle License and Registration Act which are apportioned for common school purposes pursuant to the provisions of Section 1104 of Title 47 of the Oklahoma Statutes and taxes levied upon rural electric cooperative corporations which are apportioned for common school purposes pursuant to the provisions of Section 1806 of Title 68 of the Oklahoma Statutes together with any revenues accruing to it pursuant to law and any money appropriated to it by the Legislature shall be paid to the State Treasurer to be placed in the Common School Fund.

D. The provisions of this section shall not have the force and effect of law unless and until the voters of the State of Oklahoma approve amendments to Section 12a of Article X of the Oklahoma Constitution contained in Enrolled House Joint Resolution No. 1005 of the 1st Extraordinary Session of the 42nd Oklahoma Legislature. **(70-18-109.7)**

Section 394. Adjustments and Limitations.

A. If any district, or part of a district, becomes a part of another district by consolidation, annexation, or otherwise, the following procedure shall be followed, except as otherwise provided by law, in calculating aid to the new district or districts so formed:

1. If the action occurs after budgets have been approved by the county excise board and the tax levies approved, the State Aid for the current year shall be calculated for each district as it existed prior to the annexation and prorated to the annexing district or districts on the basis of average daily attendance.

2. If the action occurs prior to approval of the school district budgets by the county excise board, the annexed district shall be merged with the annexing district or districts and State Aid shall be calculated according to the formula provided by this title.

B. Any school district that does not maintain school for a full term pursuant to Section 1-109 of this title shall have its State Aid reduced proportionately unless it has received written approval to maintain school for less than a full term from the State Board of Education. The State Board of Education shall not approve any request to maintain school for less than a full term unless such request meets the requirements of Section 1-109 of this title.

C. 1. If a school district operates a school located in a state institution, as described in subsection E of Section 1-113 of this title, for the pupils of school age residing in such institution, the membership of such children shall be included in the membership of such school district for the purpose of calculating State Aid of the district.

2. If a school district provides education to children in out-of-home placements who are not residents of the school district in which an entity is located pursuant to the provisions of subsections D and F of Section 1-113 of this title, the membership and out-of-home placement pupil weight for such student shall be included in the membership of the district providing the education for the purposes of calculating state aid.

D. Upon determination by the Finance Division of the State Department of Education that a legal residence for a child placed in an out-of-home placement cannot be identified, the district in which the placement is located shall be the district of residence and the average daily membership of such child shall be credited to such district.

E. If any school district shall fail, neglect or refuse, for any reason whatsoever, to provide special education and related services for a child with disabilities, certified as such by competent authorities and residing in such district, as directed in Section 13-101 of this title, the following is hereby authorized:

1. Such child shall be entitled, upon petition by the child's parent or guardian, without consent or approval of the school district not providing special education and related services, to transfer to any adjacent or nearby school district which will accept the child with disabilities and provide the special education and related services which such child is entitled to receive. Notwithstanding the provisions of the Education Open Transfer Act, a school district in which a child transferring under this section resides shall pay to the district receiving and educating such child, as tuition, a special education transfer fee as provided in paragraph 2 of this subsection. Provided the average daily membership of such child shall be credited to the resident district of such transferee.

2. The special education transfer fee shall be the per capita cost of the receiving district for current expenditures for the special education and related services of such child with disabilities based upon the cost of teachers, equipment, material, and special costs associated with the special education class.

3. It shall be the duty of the school district from which such child with disabilities transfers to appropriate and pay such special education transfer fee to the district which receives and educates such child. If a school district owing such special education transfer fees shall fail, neglect or refuse for any reason whatsoever to appropriate and pay such special education transfer fees, then the school district entitled to receive such fees shall certify such fact to the Finance Division of the State Department of Education. Upon receipt of such certification, the Finance Division shall deduct the amount of the special education fee from any State Foundation Program or Incentive Aid otherwise due the sending district and transmit such amount to the receiving district.

4. The sending school district shall also be obligated to pay the special education transfer fee, notwithstanding the provisions of the Education Open Transfer Act:

a. whenever a student who resides in the district is transferred to another school district for purposes other than to acquire special education,

b. the student is subsequently found to require such special education and related services,

c. the student is determined to be eligible by the Special Education Division of the State Department of Education, and

d. the student is placed in an appropriate special education program by the receiving school district.

For purposes of this paragraph, the special education transfer fee shall be as provided by paragraph 2 of this subsection, prorated by the receiving school district according to the number of days the student has been enrolled in the special education program. The receiving district shall notify the sending district immediately upon finding that the student requires special education and related services and the sending district shall participate in planning the student's Individualized Education Program (IEP) and in subsequent reviews of the program in accordance with the Individuals with Disabilities Education Act (IDEA). **(70-18-110)**

District may maintain school for less than a full term if conditions exist which make maintenance impossible, but district's State Aid must still be reduced if it does not meet requirements of a full school term. *November 26, 1980 (AG Op. No. 80-243)*

Section 395. Average Daily Membership - Legally Resident Pupils.

No pupil shall be counted in the average daily membership of any district for the purpose set out in this article unless said pupil is a legal resident of said district as provided for in Section 1-113 of this title or has been transferred to said district. A pupil moving from a school district during a school term shall be entitled to attend such school for the remainder of that school term. School districts shall not include out-of-state pupils in their average daily membership for the purpose set out in this article. The following pupils shall not be counted: Those who have attained twenty-one (21) years of age by September I of that school year, or who have completed the twelfth grade, except as elsewhere provided for by law for veterans of World War II, the Korean War, or the Vietnam Conflict, and those who have not attained four (4) years of age by September 1 of that school year. In determining the ages of pupils for State Aid

purposes, birth certificates shall be presented, if obtainable, as proof of age. Underage pupils in kindergarten and first grade who have been in legal school attendance in a public or private school in another state or in a Department of Defense School for military dependents may be legally enrolled and attend an Oklahoma school. **(70-18-111)**

Section 396. Supplement to State Aid.

A. For the 1987-88 school year and for each school year thereafter, each school district which, pursuant to the provisions of Section 18-112 of Title 70 of the Oklahoma Statutes, received funding for the 1986-87 school year in excess of the sum of Foundation Aid, Salary Incentive Aid, and Transportation Supplement otherwise authorized pursuant to Section 18-109.2 of Title 70 of the Oklahoma Statutes shall receive a Supplement in State Aid: For the 1987-88 school year, said Supplement shall be equal to sixty-seven percent (67%) of the amount of said excess funding, less the amount by which the sum of Foundation Aid, Salary Incentive Aid, and Transportation Supplement exceeds saidsum for the preceding school year; for the 1988-89 school year and thereafter, the Supplement in State Aid shall be an amount equal to the previous year's Supplement less the amount by which the sum of Foundation Aid, Salary Incentive Aid, and Transportation Supplement for the school year being considered exceeds said sum for the preceding school year. No school district shall receive for any school year subsequent to the 1987-88 school year a Supplement in State Aid larger than said Supplement received for the year preceding the subsequent year. Districts must levy thirty-five (35) General Fund mills to receive this Supplement.

B. Eligibility of a district for a Supplement in State Aid shall not cause the district to be exempt from penalties required by the provisions of Section 18-113.1 of Title 70 of the Oklahoma Statues. Calculation of the Supplement in State Aid shall be based on use of unreduced average daily attendance for determination of the sum of Foundation Aid, Salary Incentive Aid, and Transportation Supplement. The actual amount of Foundation Aid, Salary Incentive Aid, and Transportation Supplement to be paid, however, shall be subject to the provisions of Section 18-113.1 of Title 70 of the Oklahoma Statues. **(70-18-112.2)**

Section 397. Class Size.

A. The provisions of this subsection shall apply only to grades one through three.

1. Except as otherwise provided for in this section, no child shall be included in the average daily membership of a school district for the purpose of computing and paying state-appropriated funds if that child is regularly assigned to a teacher or to a class that includes more than twenty (20) students.

2. If a class or classes in a grade exceed the class size limitation provided for in this subsection, the class size limitation and penalty shall not apply if:

a. the creation of an additional class would cause a class to have fewer than ten (10) students; and

b. a teacher's assistant, as defined in Section 6-127 of this title, is employed to serve with each teacher in a class that exceeds the class size limitation provided for in this subsection.

3. No school district shall be penalized for exceeding class size limitations set forth in this subsection if the limitations are exceeded beginning after the first nine (9) weeks of the school year.

Any school district found to be in violation of the provisions of this subsection shall receive a penalty in the State Aid formula as a reduction to State Aid to be determined as follows:

a. Multiply each pupil in excess of the class size membership limit as provided in this subsection by the grade level weight and by the Base Foundation Support Level for the current school year, and

b. Multiply each pupil in excess of the class size membership limit as provided in this subsection by the grade level weight and by the Incentive Aid guarantee for the current school year times twenty (20), and

c. sum the products of subparagraphs a and b of this paragraph.

B. The provisions of this subsection shall apply only to grades four through six.

1. Except as otherwise provided for in this section, no child shall be included in the average daily membership of a school district for the purpose of computing and paying state-appropriated funds if that child is regularly assigned to a teacher or to a class that includes more than twenty (20) students.

2. If a class or classes in a grade exceed the class size limitation provided for in this subsection, the class size limitation and penalty shall not apply if the creation of an additional class would cause a class to have fewer than sixteen (16) students.

3. No school district shall be penalized for exceeding class size limitations set forth in this subsection if the limitations are exceeded after the first nine (9) weeks of the school year.

4. Any school district found to be in violation of the provisions of this subsection shall receive a penalty in the State Aid formula as a reduction to State Aid to be determined as follows:

a. Multiply each pupil in excess of the class size membership limit as provided in this subsection by the grade level weight and by the Base Foundation Support Level for the current school year, and

b. Multiply each pupil in excess of the class size membership limit as provided in this subsection by the grade level weight and by the Incentive Aid guarantee for the current school year times twenty (20), and

c. Sum the products of subparagraphs a and b of this paragraph.

C. Classes in the following subjects shall not be subject to the class size limitations provided for in subsections A and B of this section:

1. physical education; and

2. chorus, band, orchestra and similar music classes.

D. If a school district groups its grades as grades one through five, grades six through eight, and grades nine through twelve, then as to such district the provisions of subsection B. of this section shall apply to grades four and five rather than grades four through six, and the provisions of Section 180113.3 of this title shall apply to grades six through twelve.

E. Any violations of the provisions of this section shall result in denial of accreditation in accordance with the requirements of Section 3-104.4 of this title.

F. Any school district which at the beginning of the school year does not have sufficient classrooms to meet the class size limitations provided for in this section as determined by guidelines established by the State Board of Education shall not be penalized for failure to meet the class size limitations provided for in this section if:

a. the school district has voted indebtedness, at any time within the five (5) years preceding the year the district exceeds the class size limitations or during the year the district exceeds the class size limitations, through the issuance of bonds or approval by voters of issuance of new bonds for more than eighty-five percent (85%) of the maximum allowable pursuant to the provisions of Section 26 of Article X of the Oklahoma Constitution as shown on the school district budget filed with the State Equalization Board for the current school year and certifications by the Attorney General prior to February 1 of the current school year; and

b. on the date of filing of the school district budget with the State Equalization Board, the school district is voting the maximum millage allowable for the support, maintenance and construction of schools as provided for in subsections (a), (c), (d) and (d-1) of Section 9 of Article X of the Oklahoma Constitution and Section 10 of Article X of the Oklahoma Constitution.

G. Any school district which exceeds the class size limitations as set forth in this section shall submit a written report to the State Board of Education, on or before July 1 of each year, setting forth the procedures that the district will follow in order to comply with this section.

H. School districts which receive state-appropriated funds pursuant to the provisions of Section 18-112.2 of this title and do not comply with the provisions of this section shall be subject to loss of State Aid for each child in excess of the class size limitations specified in this section. **(70-18-113.1)**

The term "class" refers to each individual class or classroom and does not refer to an entire class of students by grade category. *December 12, 1978 (AG Op. No. 78-221)*

Section 398. Class Size - Kindergarten.

A. The provisions of this section shall apply only to kindergarten.

1. No child shall be included in the average daily membership of a school district for the purpose of computing and paying state-appropriated funds if that child is regularly assigned to a teacher or to a class that includes more than twenty (20) students.

2. If a class or classes in a grade exceed the class size limitation provided for in this subsection, the class size limitation and penalty shall not apply if:

a. the creation of an additional class would cause a class to have fewer than ten (10) students; and

b. a teacher's assistant, as defined in Section 6-127 of this title, is employed to serve with each teacher in a class that exceeds the class size limitation provided for in this subsection.

3. No school district shall be penalized for exceeding class size limitations set forth in this section if the limitations are exceeded beginning after the first nine (9) weeks of the school year.

4. Any school district which at the beginning of the school year does not have sufficient classrooms to meet the class size limitation provided for in this section as determined by guidelines established by the State Board of Education shall not be penalized for failure to meet the class size limitations provided for in this section if;

a. the school district has voted indebtedness, at any time within the five (5) years preceding the year the district exceeds the class size limitations or during the year the district exceeds the class size limitations, through the issuance of bonds or approval by voters of issuance of new bonds for more than eighty-five percent (85%) of the maximum allowable pursuant to the provisions of Section 26 of Article X of the Oklahoma Constitution as shown on the school district budget filed with the State Equalization Board for the current school year and certifications by the Attorney General prior to February 1 of the current school year; and

b. on the date of filing of the school district budget with the State Equalization Board, the school district is voting the maximum millage allowable for the support, maintenance and construction of schools as provided for in subsections (a), (c), (d) and (d-1) of Section 9 of article X of the Oklahoma Constitution and Section 10 of Article X of the Oklahoma Constitution.

5. Any school district found to be in violation of the provisions of this subsection shall receive a penalty in the State Aid formula as a reduction to State Aid to be determined as follows:

a. Multiply each pupil in excess of the class size membership limit as provided in this subsection by the grade level weight and by the Base Foundation Support Level for the current school year, and

b. Multiply each pupil in excess of the class size membership limit as provided in this subsection by the grade level weight and by the Incentive Aid guarantee for the current school year times twenty (20), and

c. Sum the products of subparagraphs a and b of the paragraph.

B. Any violations of the provisions of this section shall result in denial of accreditation in accordance with the requirements of Section 3-104.4 of this title.

C. School districts which receive state-appropriated funds pursuant to the provisions of Section 18-112.2 of this title and do not comply with the provisions of this section shall be subject to loss of State Aid for each child in excess of the class size limitations specified in this section. **(70-18-113.2)**

Section 399. Class Size - Method for Determination.

A. Class size, as used in Section 18-113.1 and Section 18-113.2 of this title, shall be determined by the average daily membership divided by the full-time equivalency of the instructional staff assigned to each grade level by site. Full-time equivalency of special education teachers, Chapter I teachers, and teachers of classes not subject to class size limitations and the average daily membership of self-contained special education classes shall not be counted in class size computation.

B. As used in this section, self-contained special education classes are those classes whose students attend the same class for three (3) or more class periods and who have individualized education plans.

C. Beginning with the 1996-97 school year and each school year thereafter, no teacher who is counted in class size count for grades seven through twelve shall be responsible for the instruction of more than one hundred forty (140) students on any given six-hour school day. Class size count shall be taken during the month of October of each school year on a date set by the State Board of Education. If the class size count is in excess of the limits set forth in this subsection, the school district shall be subject to the penalties provided for in this section.

D. Students within a class which is not subject to class size limitations pursuant to subsection D of Section 18-113.1 of this title shall not be counted for purposes of the limitations set forth in subsection C of this section.

E. No school district shall be penalized for exceeding class size limitations set forth in this section if the limitations are exceeded beginning after the first nine (9) weeks of the school year.

F. The first year that a school district exceeds the class size membership limitation as established and computed in subsection C of this section, the district shall receive as a penalty a reduction in the State Aid for the district. For each child in excess of the class size limitation, the reduction in State Aid to the district shall be determined as follows:

1. Multiply the averaged number of the October class size count of pupils which is in excess of the class size membership limit as provided for in subsection C of this section by the grade weight and by the Base Foundation Support Level for the current school year;

2. Multiply the averaged number of the October class size count of pupils which is in excess of the class size membership limit as provided for in subsection C of this section by the grade level weight and by the Incentive Aid guarantee for the current school year times twenty (20); and

3. Sum the products of paragraphs 1 and 2 of this subsection.

G. If a school district exceeds the class size membership limitation as established and computed in subsection C of this section for two (2) consecutive years, the district shall receive as a penalty denial of accreditation in accordance with the requirements of Section 3-104.4 of this title.

H. For the purpose of determining whether a penalty for exceeding class size limitations shall apply, a federally funded bilingual assistant shall not qualify as a teacher's assistant.

I. Any school district which at the beginning of the school year does not have sufficient classrooms to meet the class size limitation provided for in this section as determined by guidelines established by the State Board of Education shall not be penalized for failure to meet the class size limitations provided for in this section if:

1. The school district has voted indebtedness, at any time within the five (5) years preceding the year the district exceeds the class size limitations or during the year the district exceeds the class size limitations, through the issuance of bonds or approval by voters of issuance of new bonds for more than eighty-five percent (85%) of the maximum allowable pursuant to the provisions of Section 26 of Article X of the Oklahoma Constitution as shown on the school district budget filed with the State Equalization Board for the current school year and certifications by the Attorney General prior to February 1 of the current school year; and

2. On the date of filing of the school district budget with the State Equalization Board, the school district is voting the maximum millage allowable for the support, maintenance and construction of schools as provided for in subsections (a), (c), (d) and (d-1) of Section 9 of Article X of the Oklahoma Constitution and Section 10 of Article X of the Oklahoma Constitution.

J. Any school district which exceeds the class size limitations as set forth in this section shall submit a written report to the State Board of Education, on or before July 1 of each year, setting forth the procedures that the district will follow in order to comply with this section.

K. School districts which receive state-appropriated funds pursuant to the provisions of Section 18-112.2 of this title and do not comply with the provisions of this section shall be subject to loss of State Aid for each child in excess of the class size limitations as specified in this section. **(70-18-113.3)**

Section 399.1. Application of Penalties.

A. Beginning with the 1997-98 school year, the penalties for exceeding class size limitations established in Sections 18-113.1, 18-113.2 and 18-113.3 of this title shall not apply if the class size limitations, as set forth in said sections, are exceeded beginning after the first nine (9) weeks of the school year. If the class size limitations are exceeded during the first nine (9) weeks, the penalties shall apply.

B. For the purposes of calculating class size penalties established in Sections 18-113.1, 18-113.2 and 18-113.3 of this title, school districts shall use only the full-time-equivalency of the instructional staff who are under contract to work the full school year in question.

C. Beginning July 1, 2003, school districts that participate in consolidation or annexation pursuant to the provisions of the Oklahoma School Voluntary Consolidation and Annexation Act shall be exempt from the provisions of Sections 18-113.1, 18-113.2 and 18-113.3 of this title for the year in which the consolidation or annexation occurs and for the next five (5) fiscal years. **(70-18-113.4)**

Section 399.2. Schools in State Reformatories.

Any school maintained in the state reformatories under the administrative authority of the Department of Corrections shall not be subject to the provisions of Section 18-113.3 of Title 70 of the Oklahoma Statutes. The State Board of Education shall not assess any penalties that would be imposed upon or sanctions that could result in denial of accreditation of a school pursuant to Section 18-113.3 of Title 70 of the Oklahoma Statutes for any school maintained in the state reformatories. **(70-18-113.5)**

Section 400. Minimum Salary Schedule for 1990-91.

For the 1990-91 school year, teachers in the public schools of Oklahoma shall receive in salary and/or fringe benefits not less than the amounts specified in the following schedule:

MINIMUM SALARY SCHEDULE

Year of Experience	Bachelor's Degree	Master's Degree	Doctor's Degree
0	$17,000	$18,106	$19,212
1	$18,161	$19,267	$20,373
2	$18,493	$19,599	$20,705
3	$18,714	$19,820	$20,926
4	$19,046	$20,152	$21,258
5	$19,378	$20,484	$21,590
6	$19,599	$20,705	$21,811
7	$19,931	$21,037	$22,143

8	$20,152	$21,258	$22,475
9	$20,484	$21,590	$22,696
10	$20,705	$21,811	$22,917
11	$21,037	$22,143	$23,249
12	$21,258	$22,364	$23,470
13	$21,590	$22,696	$23,802
14	$21,701	$22,807	$23,913
15	$22,032	$23,138	$24,244

Any of the degrees referred to in this section shall be from a college recognized by the State Board of Education. The State Board of Education shall accept teaching experience from out-of-state school districts that are accredited by the State Board of Education or appropriate state accrediting agency for said districts. For the purpose of state salary increments and retirement, no teacher shall be granted credit for more than five (5) years' active duty in the military service, or out-of-state teaching experience as a certified teacher or its equivalent. Nothing in this section shall prohibit boards of education from crediting more years of experience on local salary schedules than those allowed for state purposes. The State Board of Education shall recognize, for purposes of certification and salary increments, the years of experience of a certified teacher who teaches in the Department of Corrections' educational program beginning with fiscal year 1981. Beginning August 1, 1983, the State Board of Education shall recognize for purposes of certification and salary increments the years of experience of a Vocational Rehabilitation Counselor under the Department of Human Services if such counselor was employed as a certified teacher by the State Department of Education when the Division of Vocational Rehabilitation was transferred from the State Board for Vocational Education or the State Board of Education to the Oklahoma Public Welfare Commission on July 1, 1968.

Beginning August 1, 1984, the State Board of Education shall recognize for purposes of certification and salary increments all of the years of experience a Vocational Rehabilitation counselor completed while employed by the Department of Human Services if such counselor was certified as a teacher or was eligible for certification as a teacher in Oklahoma.

The State Board of Education shall recognize for purposes of certification and salary increments all of the years of experience that a certified school psychologist or psychometrist completed while employed as a doctoral intern, psychological assistant, or psychologist with any agency of the State of Oklahoma if such experience primarily involved work with persons of school or preschool age and if such person, was at the time the experience was acquired, certified as, or eligible for certification as, a school psychologist or psychometrist. **(70-18-114)**

Section 401. Salaries in Excess of Required Minimum.

Boards of education of all school districts may adopt a salary schedule and increments in excess of the minimums provided in this act. **(70-18-114.1)**

> Teacher can be paid more than minimum salary schedule, but cannot be required to donate part of compensation to school activity fund or other charity. *January 17, 1980 (AG Op. No. 79-338)*

Section 402. Instructors in Vocational Trade and Industrial Programs.

To qualify for the yearly One Hundred Dollars ($100.00) increment as provided by the Oklahoma Statutes a tradesman or technician not having a college degree who is employed as an instructor in an approved vocational trade and industrial program shall complete eight (8) college hours each year until graduation or such other training courses as may be approved by the Oklahoma State Board for Vocational Education. **(70-18-114.2)**

Section 403. Juris Doctorate Degree - Recognition in Salary Determination.

Provided that, all school districts in the State of Oklahoma, employing certified personnel who have earned Juris Doctorate Degree, granted by an institution of higher learning with membership in a recognized accrediting association

are required to accord to and grant to aforesaid degrees equal recognition for salary in contract determination. **(70-18-114.3)**

Section 404. Minimum Salary Schedule for 1991-92.

For the 1991-92 school year, teachers in the public schools of Oklahoma shall receive in salary and/or fringe benefits not less than the amounts specified in the following schedule

MINIMUM SALARY SCHEDULE

Year of Experience	Bachelor's Degree	Master's Degree	Doctor's Degree
0	$18,660	$19,766	$20,872
1	$19,821	$20,927	$22,033
2	$20,153	$21,259	$22,365
3	$20,374	$21,480	$22,586
4	$20,706	$21,812	$22,918
5	$21,038	$22,144	$23,250
6	$21,259	$22,365	$23,471
7	$21,591	$22,697	$23,803
8	$21,812	$22,918	$24,135
9	$22,144	$23,250	$24,356
10	$22,365	$23,471	$24,577
11	$22,697	$23,803	$24,909
12	$22,918	$24,024	$25,130
13	$23,250	$24,356	$25,462
14	$23,361	$24,467	$25,573
15	$23,692	$24,798	$25,904

Any of the degrees referred to in this section shall be from a college recognized by the State Board of Education. The State Board of Education shall accept teaching experience from out-of-state school districts that are accredited by the State Board of Education or appropriate state accrediting agency for said districts. For the purpose of state salary increments and retirement, no teacher shall be granted credit for more than five (5) years' active duty in the military service, or out-of-state teaching experience as a certified teacher or its equivalent. Nothing in this section shall prohibit boards of education from crediting more years of experience on local salary schedules than those allowed for state purposes. The State Board of Education shall recognize, for purposes of certification and salary increments, the years of experience of a certified teacher who teaches in the Department of Corrections' education program beginning with fiscal year 1981. The State Board of Education shall recognize for purposes of certification and salary increments the years of experience of a Vocational Rehabilitation Counselor under the Department of Human Services if such counselor was employed as a certified teacher by the State Department of Education when the Division of Vocational Rehabilitation was transferred from the State Board for Vocational Education or the State Board of Education to the Oklahoma Public Welfare Commission on July 1, 1968.

The State Board of Education shall recognize for purposes of certification and salary increments all of the years of experience a Vocational Rehabilitation Counselor completed while employed by the Department of Human Services if such counselor was certified as a teacher or was eligible for certification as a teacher in Oklahoma.

The State Board of Education shall recognize for purposes of certification and salary increments all of the years of experience that a certified school psychologist or psychometrist completed while employed as a doctoral intern, psychological assistant, or psychologist with any agency of the State of Oklahoma if such experience primarily involved work with persons of school or preschool age and if such person was, at the time the experience was acquired, certified as, or eligible for certification as, a school psychologist or psychometrist. **(70-18-114.4)**

Section 405. Minimum Salary Schedule for 1992-93.

For the 1992-93 school year, teachers in the public schools of Oklahoma shall receive in salary and/or fringe benefits not less than the amounts specified in the following schedule:

MINIMUM SALARY SCHEDULE

Year of Experience	Bachelor's Degree	Master's Degree	Doctor's Degree
0	$20,460	$21,566	$22,672
1	$21,621	$22,727	$23,833
2	$21,953	$23,059	$24,165
3	$22,174	$23,280	$24,386
4	$22,506	$23,612	$24,718
5	$22,838	$23,944	$25,050
6	$23,059	$24,165	$25,271
7	$23,391	$24,497	$25,603
8	$23,612	$24,718	$25,935
9	$23,944	$25,050	$26,156
10	$24,165	$25,271	$26,377
11	$24,497	$25,603	$26,709
12	$24,718	$25,824	$26,930
13	$25,050	$26,156	$27,262
14	$25,161	$26,267	$27,373
15	$25,492	$26,598	$27,704

Beginning with the 1992-93 school year, when determining the Minimum Salary Schedule, "fringe benefits" shall mean all or part of hospital or medical benefits, and sickness, accident, health or life insurance, and retirement benefits, excluding the contributions made pursuant to subsection A of Section 17-108.1 of this title. Any of the degrees referred to in this section shall be from a college recognized by the State Board of Education. The State Board of Education shall accept teaching experience from out-of-state school districts that are accredited by the State Board of Education or appropriate state accrediting agency for said districts. For the purpose of state salary increments and retirement, no teacher shall be granted credit for more than five (5) years' active duty in the military service, or out-of-state teaching experience as a certified teacher or its equivalent. Nothing in this section shall prohibit boards of education from crediting more years of experience on local salary schedules than those allowed for state purposes. The State Board of Education shall recognize, for purposes of certification and salary increments, the years of experience of a certified teacher who teaches in the Department of Corrections' educational program beginning with fiscal year 1981. The State Board of Education shall recognize for purposes of certification and salary increments the years of experience of a Vocational Rehabilitation Counselor under the Department of Human Services if such counselor was employed as a certified teacher by the State Department of Education when the Division of Vocational Rehabilitation was transferred from the State Board for Vocational Education or the State Board of Education to the Oklahoma Public Welfare Commission on July 1, 1968.

The State Board of Education shall recognize for purposes of certification and salary increments all of the years of experience a Vocational Rehabilitation counselor completed while employed by the Department of Human Services if such counselor was certified as a teacher or was eligible for certification as a teacher in Oklahoma.

The State Board of Education shall recognize for purposes of certification and salary increments all of the years of experience that a certified school psychologist or psychometrist completed while employed as a doctoral intern, psychological assistant, or psychologist with any agency of the State of Oklahoma if such experience primarily involved work with persons of school or pre-school age and if such person was, at the time the experience was acquired, certified as, or eligible for certification as, a school psychologist or psychometrist. **(70-18-114.5)**

Section 406. Minimum Salary Schedule for 1993-94.

For the 1993-94 school year, teachers in the public schools of Oklahoma shall receive in salary and/or fringe benefits not less than the amount specified in the following schedule:

MINIMUM SALARY SCHEDULE

Year of Experience	Bachelor's Degree	Master's Degree	Doctor's Degree
0	$22,260	$23,366	$24,472
1	$23,421	$24,527	$25,633
2	$23,753	$24,859	$25,965
3	$23,974	$25,080	$26,186
4	$24,306	$25,412	$26,518
5	$24,638	$25,744	$26,850
6	$24,859	$25,965	$27,071
7	$25,191	$26,297	$27,403
8	$25,412	$26,518	$27,735
9	$25,744	$26,850	$27,956
10	$25,965	$27,071	$28,177
11	$26,297	$27,403	$28,509
12	$26,518	$27,624	$28,730
13	$26,850	$27,956	$29,062
14	$26,961	$28,067	$29,173
15	$27,292	$28,398	$29,504

When determining the Minimum Salary Schedule, "fringe benefits" shall mean all or part of hospital or medical benefits, and sickness, accident, health or life insurance, and retirement benefits, excluding the contributions made pursuant to subsection A of Section 17-108.1 of this title. Any degrees referred to in this section shall be from a college recognized by the State Board of Education. The State Board of Education shall accept teaching experience from out-of-state school districts that are accredited by the State Board of Education or appropriate state accrediting agency for said districts. For the purpose of state salary increments and retirement, no teacher shall be granted credit for more than five (5) years' active duty in the military service, or out-of-state teaching experience as a certified teacher or its equivalent. Nothing in this section shall prohibit boards of education from crediting more years of experience on local salary schedules than those allowed for state purposes. The State Board of Education shall recognize, for purposes of certification and salary increments, the years of experience of a certified teacher who teaches in the Department of Corrections' educational program beginning with fiscal year 1981. The State Board of Education shall recognize for purposes of certification and salary increments the years of experience of a Vocational Rehabilitation counselor under the State Department of Rehabilitation Services if such counselor was employed as a certified teacher by the State Department of Education when the Division of vocational Rehabilitation was transferred from the State Board for Vocational Education or the State Board of Education to the Oklahoma Public Welfare commission on July 1, 1968.

The State Board of Education shall recognize for purposes of certification and salary increments all of the years of experience a Vocational Rehabilitation Counselor completed while employed by the Department of Human Services if such counselor was certified as a teacher or was eligible for certification as a teacher in Oklahoma.

The State Board of Education shall recognize for purposes of certification and salary increments all of the years of experience that a certified school psychologist or psychometrist completed while employed as a doctoral intern, psychological assistant, or psychologist with any agency of the State of Oklahoma if such experience primarily involved work with persons of school or pre-school age and if such person was, at the time the experience was acquired, certified as or eligible for certification as, a school psychologist or psychometrist. **(70-18-114.6)**

Section 407. Minimum Salary Schedule for 2000-01.

A. Beginning with the 2000-01 school year, teachers in the public schools of Oklahoma shall receive in salary and/or fringe benefits not less than the amounts specified in the following schedule:

MINIMUM SALARY SCHEDULE

Year of Experience	Bachelor's Degree	Master's Degree	Doctor's Degree
0	$27,060	$28,166	$29,272
1	$28,221	$29,327	$30,433
2	$28,553	$29,659	$30,765
3	$28,885	$29,991	$31,097
4	$29,217	$30,323	$31,429
5	$29,549	$30,655	$31,761
6	$29,881	$30,987	$32,093
7	$30,213	$31,319	$32,425
8	$30,545	$31,651	$32,757
9	$30,877	$31,983	$33,089
10	$31,209	$32,315	$33,421
11	$31,541	$32,647	$33,753
12	$31,873	$32,979	$34,085
13	$32,205	$33,311	$34,417
14	$32,537	$33,643	$34,749
15	$32,869	$33,975	$35,081
16	$33,201	$34,307	$35,413
17	$33,533	$34,639	$35,745
18	$33,865	$34,971	$36,077
19	$34,197	$35,303	$36,409
20	$34,529	$35,635	$36,741
21	$34,861	$35,967	$37,073
22	$35,193	$36,299	$37,405
23	$35,525	$36,631	$37,737
24	$35,857	$36,963	$38,069
25	$36,189	$37,295	$38,401

For the 2000-01 school year, any amounts received pursuant to Section 1, Chapter 1, O.S.L. 2000 shall count towards the minimum salary schedule established in this section for those teachers who qualified for the salary increase under Section 1, Chapter 1, O.S.L. 2000.

When determining the Minimum Salary Schedule, "fringe benefits" shall mean all or part of retirement benefits, excluding the contributions made pursuant to subsection A of Section 17-108.1 of this title and the flexible benefit allowance pursuant to Section 26-105 of this title from the flexible benefit allowance funds disbursed by the State Board of Education and the State Board of Career and Technology Education pursuant to Section 26-104 of this title. Amounts paid by a district for fringe benefits that were utilized to meet the requirements of this subsection for the 2003-04 school year shall be paid to teachers in salary beginning in the 2004-05 school year to meet the requirements of this subsection. Any of the degrees referred to in this section shall be from a college recognized by the State Board of Education. The State Board of Education shall accept teaching experience from out-of-state school districts that are accredited by the

State Board of Education or appropriate state accrediting agency for said districts. For the purpose of state salary increments and retirement, no teacher shall be granted credit for more than five (5) years' active duty in the military service, or out-of-state teaching experience as a certified teacher or its equivalent. Nothing in this section shall prohibit boards of education from crediting more years of experience on local salary schedules than those allowed for state purposes. The State Board of Education shall recognize, for purposes of certification and salary increments, the years of experience of a certified teacher who teaches in the Department of Corrections' educational program beginning with fiscal year 1981. The State Board of Education shall recognize for purposes of certification and salary increments the years of experience of a Vocational Rehabilitation Counselor under the Department of Human Services if such counselor was employed as a certified teacher by the State Department of Education when the Division of Vocational Rehabilitation was transferred from the State Board of Career and Technology Education or the State Board of Education to the Oklahoma Public Welfare Commission on July 1, 1968.

B. The State Board of Education shall recognize for purposes of certification and salary increments all of the years of experience a:

1. Vocational Rehabilitation Counselor completed while employed by the Department of Human Services if such counselor was certified as a teacher or was eligible for certification as a teacher in Oklahoma;

2. Certified teacher completed while employed by the Department of Human Services Child Study Center at University Hospital, if the teacher was certified as a teacher in Oklahoma; and

3. Certified school psychologist or psychometrist completed while employed as a doctoral intern, psychological assistant, or psychologist with any agency of the State of Oklahoma if such experience primarily involved work with persons of school or pre-school age and if such person was, at the time the experience was acquired, certified as, or eligible for certification as, a school psychologist or psychometrist.

C. The provisions of this section shall not apply to teachers who have entered into postretirement employment with a public school in Oklahoma and are still receiving a monthly retirement benefit. **(70-18-114.7)**

Section 408. Continuation of Contract Terms Beyond Fiscal Year.

During the twelve-month period following the expiration of a collective bargaining agreement, no district board of education may reduce the wages, hours, fringe benefits or other terms and conditions of employment for any category of employees that were agreed to in the expired collective bargaining agreement, except pursuant to a subsequent collective bargaining agreement or pursuant to implementation of the plan filed by the district board of education with the State Superintendent of Public Instruction following exhaustion of the negotiations impasse process as provided in Section 509.7 of Title 70 of the Oklahoma Statutes. **(70-18-114.8)**

Section 408.1 Salary and Benefits Not to Be Decreased.

A. If a teacher, as defined in Section 6-101.3 of this title, is employed by the same school district for the next school year as the preceding school year, the total compensation, consisting of salary and fringe benefits, of the teacher shall not be decreased the next school year unless the hours or the duties of the teacher are reduced proportionately.

For school year 2004-05, total compensation shall not include any amount paid by a district during school year 2003-04 over and above the flexible benefit allowance for certified personnel pursuant to Section 26-105 of this title toward employee health insurance if:

1. The district provided the health insurance benefit mandated in Section 1310.1 of Title 74 of the Oklahoma Statutes as a fringe benefit that required the employee to accept the health insurance option in order to receive the benefit; and

2. The district did not apply the payment toward meeting the requirements of subsection A of Section 18-114.7 of this title.

B. Subject to the provisions of this section, any school district that willfully reduces or has in years previous to enactment of this section willfully reduced the compensation of a teacher in violation of subsection A of this section shall forfeit as a penalty a portion of its State Aid equal to the total amount that the teacher was underpaid. If the teacher was

underpaid for more than one (1) school year, the amount forfeited shall equal the cumulative amount that the teacher was underpaid. The amount to be forfeited shall be deducted from the State Aid payment following confirmation of the underpayment by the State Department of Education.

C. In addition to the amount of State Aid forfeited as a penalty pursuant to subsection B of this section, in order to ensure that the teacher receives the full amount of unpaid compensation, the State Department of Education shall withhold an amount which is equal to the total amount that the teacher was underpaid from the State Aid payment of the school district and pay the amount directly to the teacher. The Board shall not withhold an amount for payment to the teacher pursuant to the subsection if the teacher has recovered the underpayment pursuant to judicial action.

D. Complaints filed with the State Board of Education pursuant to this section may be based on alleged underpayments during fiscal years that began:

1. On or after July 1, 2002; or

2. Before July 1, 2002, if the teacher filed an action to recover the underpayment in a court of competent jurisdiction before July 1, 2002.

E. Complaints filed with the State Board of Education alleging underpayment during fiscal years that began on or after July 1, 2002, shall be filed within one (1) year of the end of the fiscal year in which the underpayment is alleged to have occurred.

F. Filing a complaint with the State Board of Education pursuant to this section shall not operate to prohibit a teacher from filing an action for underpayment in a court of competent jurisdiction or continuing to pursue an action for underpayment pending in a court of competent jurisdiction on August 29, 2003.

G. The State Board of Education shall promulgate rules necessary to implement the provisions of this section. The rules shall include, but not be limited to, procedures for a teacher to file a complaint for violation of this section and the Department to investigate the complaint. **(70-18-114.9)**

Section 408.2. Repealed.

Section 408.3. Monies Previously Paid For Health Insurance To Be Used For Instruction Costs.

A. Except as provided in subsection B of this section, for school year 2004-05, the following provisions shall apply:

1. The total dollar amount a district was required to pay for all certified personnel, as defined in Section 26-103 of Title 70 of the Oklahoma Statutes, during school year 2003-04 over and above the flexible benefit allowance for certified personnel pursuant to Section 26-105 of Title 70 of the Oklahoma Statutes, in order to meet the payment mandated in Section 1310.1 of Title 74 of the Oklahoma Statutes, but not to meet the requirements of subsection A of Section 18-114.7 of Title 70 of the Oklahoma Statutes, shall be used by the district for instruction costs as defined in the Oklahoma Cost Accounting System, or for certified counselors, librarians, psychologists, psychometrists, speech-language pathologists, and certified or registered nurses, including but not limited to new or existing personnel; and

2. The total dollar amount a district paid for all certified personnel, as defined in Section 26-103 of Title 70 of the Oklahoma Statutes, who participated in the health insurance plan offered by the State and Education Employees Group Insurance Board or the self-insured plan offered by the district, during school year 2003-04 as additional contributions toward employee health insurance, not including the flexible benefit allowance and not including the amount described in paragraph 1 of this section, shall be paid by the district as increased total compensation to certified personnel, as defined in Section 26-103 of Title 70 of the Oklahoma Statutes, in taxable compensation or fringe benefits as determined by the district board of education or paid pursuant to the terms of a collective bargaining agreement.

B. 1. Of the total dollar amount a district was required to pay as described in paragraph 1 of subsection A of this section, any amount that is used to meet the requirements of subsection A of Section 18-114.7 of Title 70 of the Oklahoma Statutes shall not be subject to the requirements of paragraph 1 of subsection A of this section.

2. Of the total dollar amount a district paid as described in paragraph 2 of subsection A of this section, any amount that is used to meet the requirements of subsection A of Section 18-114.7 of Title 70 of the Oklahoma Statutes shall not be subject to the requirements of paragraph 2 of subsection A of this section. **(70-18-114.11)**

Section 408.4. Minimum Salary Schedule for 2005-2006, 2006-2007, 2007-2008, 2008-2009.

A. For the 2005-06 school year, teachers in the public schools of Oklahoma shall receive in salary and/or fringe benefits not less than the amounts specified in the following schedule:

MINIMUM SALARY SCHEDULE

Year of Experience	Bachelor's Degree	Master's Degree	Doctor's Degree
0	$28,000	$29,200	$30,400
1	$28,375	$29,575	$30,775
2	$28,750	$29,950	$31,150
3	$29,125	$30,325	$31,525
4	$29,500	$30,700	$31,900
5	$29,900	$31,100	$32,300
6	$30,300	$31,500	$32,700
7	$30,700	$31,900	$33,100
8	$31,100	$32,300	$33,500
9	$31,500	$32,700	$33,900
10	$31,925	$33,125	$34,325
11	$32,350	$33,550	$34,750
12	$32,775	$33,975	$35,175
13	$33,200	$34,400	$35,600
14	$33,625	$34,825	$36,025
15	$34,050	$35,250	$36,450
16	$34,475	$35,675	$36,875
17	$34,900	$36,100	$37,300
18	$35,325	$36,525	$37,725
19	$35,750	$36,950	$38,150
20	$36,175	$37,375	$38,575
21	$36,600	$37,800	$39,000
22	$37,025	$38,225	$39,425
23	$37,450	$38,650	$39,850
24	$37,875	$39,075	$40,275
25	$38,300	$39,500	$40,700

B. For the 2006-07 school year, teachers in the public schools of Oklahoma shall receive in salary and/or fringe benefits not less than the amounts specified in the following schedule:

MINIMUM SALARY SCHEDULE

Year of Experience	Bachelor's Degree	Master's Degree	Doctor's Degree

0	$31,000	$32,200	$33,400
1	$31,375	$32,575	$33,775
2	$31,750	$32,950	$34,150
3	$32,125	$33,325	$34,525
4	$32,500	$33,700	$34,900
5	$32,900	$34,100	$35,300
6	$33,300	$34,500	$35,700
7	$33,700	$34,900	$36,100
8	$34,100	$35,300	$36,500
9	$34,500	$35,700	$36,900
10	$34,925	$36,125	$37,325
11	$35,350	$36,550	$37,750
12	$35,775	$36,975	$38,175
13	$36,200	$37,400	$38,600
14	$36,625	$37,825	$39,025
15	$37,050	$38,250	$39,450
16	$37,475	$38,675	$39,875
17	$37,900	$39,100	$40,300
18	$38,325	$39,525	$40,725
19	$38,750	$39,950	$41,150
20	$39,175	$40,375	$41,575
21	$39,600	$40,800	$42,000
22	$40,025	$41,225	$42,425
23	$40,450	$41,650	$42,850
24	$40,875	$42,075	$43,275
25	$41,300	$42,500	$43,700

C. Beginning with the 2007-08 school year, teachers in the public schools of Oklahoma shall receive in salary and/or fringe benefits not less than the amounts specified in the following schedule:

MINIMUM SALARY SCHEDULE

Year of Experience	Bachelor's Degree	Master's Degree	Doctor's Degree
0	$31,600	$32,800	$34,000
1	$31,975	$33,175	$34,375
2	$32,350	$33,550	$34,750
3	$32,725	$33,925	$35,125
4	$33,100	$34,700	$35,500
5	$33,500	$35,100	$35,900
6	$33,900	$31,500	$36,300
7	$34,300	$35,500	$36,700
8	$34,700	$35,900	$37,100
9	$35,100	$36,300	$37,500

10	$35,950	$37,575	$39,625
11	$36,375	$38,000	$40,050
12	$36,800	$38,425	$40,475
13	$37,225	$38,850	$40,900
14	$37,650	$39,275	$41.325
15	$38,075	$39,700	$41,750
16	$38,500	$40,125	$42,175
17	$38,925	$40,550	$42,600
18	$39,350	$40,975	$43,025
19	$39,775	$41,400	$43,450
20	$40,200	$41,825	$43,875
21	$40,625	$42,250	$44,300
22	$41,050	$42,675	$44,725
23	$41,475	$43,100	$45,150
24	$41,900	$43,525	$45,575
25	$42,325	$43,950	$46,000

D. When determining the Minimum Salary Schedule, "fringe benefits" shall mean all or part of retirement benefits, excluding the contributions made pursuant to subsection A of Section 17-108.1 of this title and the flexible benefit allowance pursuant to Section 26-105 of this title from the flexible benefit allowance funds disbursed by the State Board of Education and the State Board of Career and Technology Education pursuant to Section 26-104 of this title. Any of the degrees referred to in this section shall be from a college recognized by the State Board of Education. The State Board of Education shall accept teaching experience from out-of-state school districts that are accredited by the State Board of Education or appropriate state accrediting agency for the districts. For the purpose of state salary increments and retirement, no teacher shall be granted credit for more than five (5) years' active duty in the military service, or out-of-state teaching experience as a certified teacher or its equivalent. Nothing in this section shall prohibit boards of education from crediting more years of experience on district salary schedules than those allowed for state purposes. The State Board of Education shall recognize, for purposes of certification and salary increments, the years of experience of a certified teacher who teaches in the Department of Corrections' educational program beginning with fiscal year 1981. The State Board of Education shall recognize for purposes of certification and salary increments the years of experience of a Vocational Rehabilitation Counselor under the Department of Human Services if the counselor was employed as a certified teacher by the State Department of Education when the Division of Vocational Rehabilitation was transferred from the State Board of Career and Technology Education or the State Board of Education to the Oklahoma Public Welfare Commission on July 1, 1968.

E. The State Board of Education shall recognize for purposes of certification and salary increments all of the years of experience a:

1. Vocational Rehabilitation Counselor completed while employed by the Department of Human Services if such counselor was certified as a teacher or was eligible for certification as a teacher in Oklahoma;

2. Certified teacher completed while employed by the Department of Human Services Child Study Center at University Hospital, if the teacher was certified as a teacher in Oklahoma; and

3. Certified school psychologist or psychometrist completed while employed as a doctoral intern, psychological assistant, or psychologist with any agency of the State of Oklahoma if the experience primarily involved work with persons of school or preschool age and if the person was, at the time the experience was acquired, certified as, or eligible for certification as, a school psychologist or psychometrist.

F. The provisions of this section shall not apply to teachers who have entered into postretirement employment with a public school in Oklahoma and are still receiving a monthly retirement benefit. **(70-18-114.12)**

For the purposes of meeting minimum salary requirements, the salary of a teacher may include school district payment of any *employee* contributions towards retirement, but *employer* contributions towards retirement benefits or flexible spending benefits may not be included. *Feb. 23, 2007 (AG Op. No. 07-04)*

Section 408.5 Salary Increase Appropriations to be added to State Aid Appropriations.

State appropriated funding for certified or support personnel salary increases that is not appropriated through the State Aid formula provided in Section 18-200.1 of Title 70 of the Oklahoma Statutes shall be added to the state appropriation for the State Aid formula in the next fiscal year following the year the increase became effective, and each year thereafter. For the purposes of this section, state appropriated funding for certified or support personnel salary increases shall not include funding for the following items for education employees: health benefit allowances, Academic Achievement Awards, Mentor Teacher Stipends, Education Leadership Oklahoma bonuses, and the Oklahoma Ambassador of Teaching. **(70-18-114.13)**

Section 409. Annual Budget Can Include Increased Aid.

In the preparation of their budgets and estimates of income for the school years 1971-1972 and thereafter, the school districts of this state may include the increased amounts of State Aid provided by this act. **(70-18-115)**

Section 410. Forfeit State Aid.

A. Any school district which willfully operates school buses contrary to the rules and regulations prescribed by the State Board of Education shall forfeit its State Aid for the time of noncompliance. All State Aid funds shall be withheld from any school district that does not comply with the standards of the State Board of Education for accrediting.

B. Any school district that willfully pays a teacher less than the minimum salary required by law including the five percent (5%) increments for special education or alternative education shall forfeit a portion of its State Aid equal to the amount that the teacher was underpaid. The amount to be forfeited shall be deducted from the State Aid payment following confirmation of the underpayment by the State Department of Education.

C. 1. No more than fifty percent (50%) of the funds apportioned to school districts under the provisions of this article shall be paid by the state unless and until there has been filed with the State Board of Education on forms prescribed by such Board an itemized sworn account of the expenditures and revenues of the school district during the next preceding fiscal year and a teacher personnel report for the current year.

2. All State Aid paid to a district whose district budget, as filed with the State Auditor and Inspector, shows that the appropriations of the district, plus the State Aid and other cash funds for which the district qualifies, will not enable it to maintain a full term of school as defined by this article, shall be credited against the State Aid of the district or districts to which the first district shall be annexed, if annexation is required. It is intended that the balance of any unexpended State Aid or other revenue originally allocated to an annexed district shall be paid to the receiving district.

D. School districts receiving State Aid shall not spend any of these funds except by regularly issued warrants. The warrants shall be issued against properly approved encumbrances in the manner provided by law. All encumbrances shall be approved by the board of education of the school district at a regular meeting or a special meeting called for that purpose. All original copies of encumbrances as represented by purchase orders, shall be filed in either numerical or alphabetical order, with the original paid invoice or invoices attached, accompanied by a signed and dated receiving copy verifying receipt of goods or services. It shall be unlawful to register or pay the warrant unless such warrant conforms to the statutes regulating the allowance and issuance thereof. Said treasurer shall purchase, by treasurer's check, all warrants issued.

E. All board of education members, employees, or other officials of school districts required to make reports to the State Board of Education or other agencies under the provisions of this article, and all persons lawfully charged with the duty of making records of original entry, such as teachers' registers, transportation records, and financial records, which form the basis, in whole or in part, of said reports, shall exercise the highest degree of diligence, accuracy, and good faith in making said records and reports reflect the truth. Teachers' registers shall be marked daily in ink, by the teacher or principal in charge of rooms or groups of pupils. Provided, the State Board of Education may authorize alternate systems of accounting for pupils' attendance in districts using data processing methods.

F. The State Board of Education shall revoke the certificate of any teacher, principal, or superintendent who knowingly or willfully violates any of the provisions of this article.

G. Any official involved in the execution of this article who shall fail or refuse to carry out any of the provisions thereof shall be liable on his official bond, if any, for the monetary damages resulting from said failure to act, and in addition thereto shall be subject to removal from office for neglect of duty under the provisions of law relating to the removal of public officials.

H. Any person or firm who shall knowingly or willfully violate any of the provisions of this article shall be guilty of a misdemeanor. Any public official or public employee violating any of the provisions of this article shall be subject to the penalties for a misdemeanor and in addition thereto shall forfeit his position or office. Any officer or employee of the State Board of Education who knowingly or willfully apportions or disburses any monies appropriated by this article contrary to the provisions of this article shall be subject to the penalties for a misdemeanor and in addition shall forfeit his office or position.

I. The State Board of Education shall prescribe the form of all records, reports and applications for State Aid necessary to the proper administration of this article, and it shall be the duty of all, school district superintendents, and boards of education of school districts to make such reports fully and completely at the time and in the manner prescribed by the State Board of Education. The State Board of Education shall also have authority and it shall be its duty to promulgate rules and regulations, not inconsistent with the provisions hereof, relative to the distribution of funds and for the administration of this article. Such regulations and rules shall apply alike to all school districts.

J. Any school district that is not in compliance with the standards and requirements established by the State Board of Education related to the state student record system as provided in Section 3-160 of this title shall forfeit its State Aid for the time of noncompliance. **(70-18-116)**

Section 411. State Aid - Apportionment.

All apportionments of State Aid to school districts shall be made by the State Board of Education through its Director of Finance, who shall not knowingly make any apportionment or disbursement of State Aid funds which is not authorized by law. Any State Aid funds illegally disbursed by the Director of Finance shall be returned to the State Treasurer by the school district receiving such funds, or legal action shall be instituted in the name of the state against such school district or on the bond of the Director of Finance. **(70-18-117)**

Section 412. Examiners - State Aid Funds Defined.

A. The State Auditor and Inspector shall approve auditors who shall audit the funds of the public school districts and the use made of the monies thereof, and shall make such other audits as may be required by the State Auditor and Inspector.

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

C. If audits disclose that state monies have been illegally apportioned to, or illegally disbursed or expended by, a school district or any of its officers or employees, the State Board of Education shall make demand that the monies be returned to the State Treasurer by such school district. If the monies are not returned, the State Board of Education shall withhold the unreturned amount from subsequent allocations of state funds otherwise due the district. The State Board of Education shall cause suit to be instituted to recover for the state any monies illegally disbursed or expended, if not otherwise recovered as provided herein. **(70-18-118)**

Recovering an overpayment of state aid does not impose the type of obligation prohibited by the constitutional debt limitations. *ISD No. 20 of Muskogee County v. Okla. State Dept. of Education*, 2003 OK 18, 65 P.3d 612.

This section places an obligation on State Board of Education to recover monies, including a prior year overpayment of state aid once it is determined that an overpayment has occurred. *July 20, 1999 (AG Op. No. 99-36)*

Section 413. Loss of Average Daily Attendance - Dismissal of Teachers.

Teachers may be dismissed if a school district has a loss of average daily attendance over the prior year which would reduce state aid to the extent that such district was unable to finance the contract salaries of teachers employed by school districts under the continuing contract law. **(70-18-123)**

Section 414. Expenditures for Administrative Services in Districts with ADA Exceeding 1,500 Students.

A. Any school district with an average daily attendance (ADA) of more than one thousand five hundred (1,500) students for the preceding year which expends for administrative services in the 2005-06 school year or any school year thereafter, less expenditures for legal services, more than five percent (5%) of the amount it expends for total expenditures, less expenditures for legal services, shall have the amount which exceeds the five percent (5%) withheld the following year from the Foundation and Salary Incentive Aid for the school district.

B. Any school district with an average daily attendance (ADA) of more than five hundred (500) students but not more than one thousand five hundred (1,500) students for the preceding year which expends for administrative services in the 2005-06 school year or any school year thereafter, less expenditures for legal services, more than seven percent (7%) of the amount it expends for total expenditures, less expenditures for legal services, shall have the amount which exceeds the seven percent (7%) withheld the following year from the Foundation and Salary Incentive Aid for the school district.

C. Any school district with an average daily attendance (ADA) of five hundred (500) or fewer students for the preceding year which expends for administrative services in the 2005-06 school year or any school year thereafter, less expenditures for legal services, more than eight percent (8%) of the amount it expends for total expenditures, less expenditures for legal services, shall have the amount which exceeds the eight percent (8%) withheld the following year from the Foundation and Salary Incentive Aid for the school district.

D. For purposes of this section, “administrative services” means costs associated with:

1. Staff for the board of education;

2. The secretary/clerk for the board of education;

3. Staff relations;

4. Negotiations staff;

5. Immediate staff of the superintendent, any elementary superintendent or any assistant superintendent;

6. Any superintendent, elementary superintendent, or assistant superintendent;

7. Any employee of a school district employed as a director, coordinator, supervisor, or who has responsibility for administrative functions of a school district; and

8. Any consultant hired by the school district.

E. If an employee of a school district is employed in a position where part of the employee’s time is spent as an administrator and part of the time is spent in nonadministrative functions, the percentage of time spent as an administrator shall be included as administrative services. A superintendent who spends part of the time performing exempted nonadministrative services such as teaching in the classroom, serving as a principal, counselor, or library media specialist, can code up to forty percent (40%) of their salary to other nonadministrative functions. The total amount of time a superintendent of a school district spends performing services for a school district shall be included as administrative services even if part of the time the superintendent is performing nonexempted nonadministrative service functions. The total amount received by a superintendent from the school district as salary, for the performance of administrative and nonexempted nonadministrative services, shall be recorded under the code for superintendent salary as provided for in the Oklahoma Cost Accounting System.

F. Each school site within a school district shall take steps to ensure that the administrative costs for the school comply with the expenditure limits established for school districts in this section.

G. Funds withheld pursuant to the provisions of this section shall be distributed through the State Aid formula to the districts not so penalized.

H. For the 2003-04 and 2004-05 school year, school districts shall report to the State Department of Education the costs associated with administrative services for the school district as defined in subsection D of this section. **(70-18-124)**

Note: Amended by SB 664, Sec. 1 & HB 1372, Sec. 1 of the 2011 Reg. Sess. Effective July 1, 2011.

Section 415. Incentive Grants to Fund Cooperative Programs.

Recognizing the needs small school districts have to meet increased high school graduation and college admission requirements, and the difficulty such districts may experience in offering the necessary academic courses, the Legislature hereby states its intent to assist such districts through the creation of incentive grants to fund cooperative programs. Such grants shall be allocated by the State Board of Education on a competitive basis to school districts with an average daily attendance of eight hundred (800) or less, or to any school district participating in the East Central Educational Support Center, to enter into an agreement with one or more districts of any size or an accredited institution of higher education to provide classes in mathematics, science, a foreign language, computer education, visual arts or music to elementary or secondary students. In allocating incentive grants to fund cooperative programs, the State Department of Education shall give priority to those programs that emphasize classes required for high school graduation and college admission. Funding provided in the grants shall be expended for instruction-related personnel, equipment, transportation, materials and telecommunications, including but not limited to telecommunication equipment, instruction and other materials. Funding provided for grants for telecommunication shall not exceed fifty percent (50%) of the funds provided for all grants specified in this section. No funds provided shall be used for construction of buildings. **(70-18-125)**

Section 416. Common School Capital Improvement Act.

This act shall be cited as the "Common School Capital Improvement Act". **(70-18-151)**

Section 417. Legislative Intent - School Facilities.

It is hereby declared to be the intent of the Legislature to assure that students in the public schools of this state occupy facilities which are designed for adaptability to program offerings. Such facilities should be structurally safe, well maintained and contain adequate space to meet the instructional needs of each student. It is further declared to be the intent of the Legislature that these facility standards be implemented through the Common School Capital Improvement Act. **(70-18-152)**

Section 418. Capital Improvement Plan.

A. Each local school district shall develop and adopt a four-year capital improvement plan for the public schools in the district and shall submit such plan to the State Board of Education as provided for in Section 1 of this act. Each local school district shall review and update their plan annually. Capital improvement plans shall be based upon guidelines developed by the State Department of Education.

B. The State Department of Education shall develop and the State Board of Education shall adopt a statewide four-year capital improvement master plan for the public common schools of this state. Such master plan shall be subject to the provisions of Section 308 of Title 75 of the Oklahoma Statutes. All plans specified in this section shall be reviewed by the Common School Capital Improvement Needs Assessment Committee as established by this act. **(70-18-153)**

Section 419. Common School Capital Improvement Assessment Committee.

There is hereby created a Common School Capital Improvement Needs Assessment Committee which shall have such duties as prescribed by law. The Committee shall consist of seven (7) members as follows:

1. Two members shall be appointed by the Speaker of the House of Representatives;

2. Two members shall be appointed by the President Pro Tempore of the Senate;

3. One member shall be appointed by the Governor;

4. One member shall be the State Fire Marshal or a designee; and

5. One member shall be the Administrator of the Special Education Section of the State Department of Education or a designee.

The appointed members of the Committee each shall serve at the pleasure of their appointing officer. The member appointed by the Governor shall serve as the Chairman of the Committee. The Administrator of the School Plant Services Section of the State Department of Education shall serve as Executive Director to the Committee. The Committee shall review the four-year capital improvement plans of the school districts when they are submitted to the State Board of Education as provided in Section 1 of this act. The Committee members shall be reimbursed for actual and necessary travel expenses as provided by the State Travel Reimbursement Act. **(70-18-154)**

Section 420. State Schools Facilities Program.

The State Board of Education shall have the authority to establish and promulgate rules and regulations for a State Schools Facilities Program. **(70-18-161)**

Section 421. Schools Capital Improvements Budget.

No later than the first day of October of each year, the State Board of Education shall submit with the itemized budget request and estimates for the ensuing fiscal year, a Schools Capital Improvements Budget. Such Schools Capital Improvements Budget shall be submitted to the Director of State Finance, the Director of the Legislative Service Bureau and the Oklahoma Development Finance Authority. **(70-18-162)**

Section 422. (Omitted)

Section 422.1. State Aid - Foundation Aid - Transportation Supplement - Salary Incentive Aid.

A. Beginning with the 1997-98 school year, and each school year thereafter, each school district shall have its initial allocation of State Aid calculated based on the state dedicated revenues actually collected during the preceding fiscal year, the adjusted assessed valuation of the preceding year and the highest weighted average daily membership for the school district of the two (2) preceding school years; however, the weighted membership of nonresident, transferred pupils enrolled in online courses shall be based on the weighted average daily membership of the preceding school year. Each school district shall submit the following data based on the first nine (9) weeks, to be used in the calculation of the average daily membership of the school district:

1. Student enrollment by grade level;

2. Pupil category counts; and

3. Transportation supplement data.

On or before December 30, the State Department of Education shall determine each school district's current year allocation pursuant to subsection D of this section. The State Department of Education shall complete an audit, using procedures established by the Department, of the student enrollment by grade level data, pupil category counts and transportation supplement data to be used in the State Aid Formula pursuant to subsection D of this section by December 1 and by January 15 shall notify each school district of the district's final State Aid allocation for the current school year. The January payment of State Aid and each subsequent payment for the remainder of the school year shall be based on the final State Aid allocation as calculated in subsection D of this section. Except for reductions made due to the assessment of penalties by the State Department of Education according to law, the January payment of State Aid and each subsequent payment for the remainder of the school year shall not decrease by an amount more than the amount that the current chargeable revenue increases for that district.

B. The State Department of Education shall retain not less than one and one-half percent (1 ½%) of the total funds appropriated for financial support of schools, to be used to make midyear adjustments in State Aid and which shall be reflected in the final allocations. If the amount of appropriated funds, including the one and one-half percent (1 ½%) retained, remaining after January 1 of each year is not sufficient to fully fund the final allocations, the Department shall recalculate each school district's remaining allocation pursuant to subsection D of this section using the reduced amount of appropriated funds.

C. On and after July 1, 1997, the amount of State Aid each district shall receive shall be the sum of the Foundation Aid, the Salary Incentive Aid and the Transportation Supplement, as adjusted pursuant to the provisions of subsection G of this section and Section 18-112.2 of this title; provided, no district having per pupil revenue in excess of three hundred percent (300%) of the average per pupil revenue of all districts shall receive any State Aid or Supplement in State Aid.

The July calculation of per pupil revenue shall be determined by dividing the district's second preceding year's total weighted average daily membership (ADM) into the district's second preceding year's total revenues excluding federal revenue, insurance loss payments, reimbursements, recovery of overpayments and refunds, unused reserves, prior expenditures recovered, prior year surpluses, and less the amount of any transfer fees paid in that year.

The December calculation of per pupil revenue shall be determined by dividing the district's preceding year's total weighted average daily membership (ADM) into the district's preceding year's total revenues excluding federal revenue, insurance loss payments, reimbursements, recovery of overpayments and refunds, unused reserves, prior expenditures recovered, prior year surpluses, and less the amount of any transfer fees paid in that year.

D. For the 1997-98 school year, and each school year thereafter, Foundation Aid, the Transportation Supplement and Salary Incentive Aid shall be calculated as follows:

1. Foundation Aid shall be determined by subtracting the amount of the Foundation Program Income from the cost of the Foundation Program and adding to this difference the Transportation Supplement.

a. The Foundation Program shall be a district's highest weighted average daily membership based on the first nine (9) weeks of the current school year, the preceding school year or the second preceding school year of a school district, as determined by the provisions of subsection A of Section 18-201.1 of this title and paragraphs 1, 2, 3 and 4 of subsection B of Section 18-201.1 of this title, multiplied by the Base Foundation Support Level. However, for the portion of weighted membership derived from nonresident, transferred pupils enrolled in online courses, the Foundation Program shall be a district's weighted average daily membership of the preceding school year or the first nine (9) weeks of the current school year, whichever is greater, as determined by the provisions of subsection A of Section 18-201.1 of this title and paragraphs 1, 2, 3 and 4 of subsection B of Section 18-201.1 of this title, multiplied by the Base Foundation Support Level.

b. The Foundation Program Income shall be the sum of the following:

(1) The adjusted assessed valuation of the current school year of the school district, minus the previous year protested ad valorem tax revenues held as prescribed in Section 2884 of Title 68 of the Oklahoma Statutes, multiplied by the mills levied pursuant to subsection (c) of Section 9 of Article X of the Oklahoma Constitution, if applicable, as adjusted in subsection (c) of Section 8A of Article X of the Oklahoma Constitution. For purposes of this subsection, the "adjusted assessed valuation of the current school year" shall be the adjusted assessed valuation on which tax revenues are collected during the current school year, and

(2) Seventy-five percent (75%) of the amount received by the school district from the proceeds of the county levy during the preceding fiscal year, as levied pursuant to subsection (b) of Section 9 of Article X of the Oklahoma Constitution, and

(3) Motor Vehicle Collections, and

(4) Gross Production Tax, and

(5) State Apportionment, and

(6) R.E.A. Tax.

The items listed in divisions (3), (4), (5), and (6) of this subparagraph shall consist of the amounts actually collected from such sources during the preceding fiscal year calculated on a per capita basis on the unit provided for by law for the distribution of each such revenue.

2. The Transportation Supplement shall be equal to the average daily haul times the per capita allowance times the appropriate transportation factor.

a. The average daily haul shall be the number of children in a district who are legally transported and who live one and one-half (1 ½) miles or more from school.

b. The per capita allowance shall be determined using the following chart:

DENSITY FIGURE	PER CAPITA ALLOWANCE	DENSITY FIGURE	PER CAPITA ALLOWANCE
.3000 - .3083	$167.00	.9334 - .9599	$99.00
.3084 - .3249	$165.00	.9600 - .9866	$97.00
.3250 - .3416	$163.00	.9867 - 1.1071	$95.00
.3417 - .3583	$161.00	1.1072 - 1.3214	$92.00
.3584 - .3749	$158.00	1.3215 - 1.5357	$90.00
.3750 - .3916	$156.00	1.5358 - 1.7499	$88.00
.3917 - .4083	$154.00	1.7500 - 1.9642	$86.00
.4084 - .4249	$152.00	1.9643 - 2.1785	$84.00
.4250 - .4416	$150.00	2.1786 - 2.3928	$81.00
.4417 - .4583	$147.00	2.3929 - 2.6249	$79.00
.4584 - .4749	$145.00	2.6250 - 2.8749	$77.00
.4750 - .4916	$143.00	2.8750 - 3.1249	$75.00
.4917 - .5083	$141.00	3.1250 - 3.3749	$73.00
.5084 - .5249	$139.00	3.3750 - 3.6666	$70.00
.5250 - .5416	$136.00	3.6667 - 3.9999	$68.00
.5417 - .5583	$134.00	4.0000 - 4.3333	$66.00
.5584 - .5749	$132.00	4.3334 - 4.6666	$64.00
.5750 - .5916	$130.00	4.6667 - 4.9999	$62.00
.5917 - .6133	$128.00	5.0000 - 5.5000	$59.00
.6134 - .6399	$125.00	5.5001 - 6.0000	$57.00
.6400 - .6666	$123.00	6.0001 - 6.5000	$55.00
.6667 - .6933	$121.00	6.5001 - 7.0000	$53.00
.6934 - .7199	$119.00	7.0001 - 7.3333	$51.00
.7200 - .7466	$117.00	7.3334 - 7.6667	$48.00
.7467 - .7733	$114.00	7.6668 - 8.0000	$46.00
.7734 - .7999	$112.00	8.0001 - 8.3333	$44.00
.8000 - .8266	$110.00	8.3334 - 8.6667	$42.00
.8267 - .8533	$108.00	8.6668 - 9.0000	$40.00
.8534 - .8799	$106.00	9.0001 - 9.3333	$37.00
.8800 - .9066	$103.00	9.3334 - 9.6667	$35.00
.9067 - .9333	$101.00	9.6668 or more	$33.00

c. The formula transportation factor shall be 1.39.

3. Salary Incentive Aid shall be determined as follows:

a. Multiply the incentive Aid guarantee by the district's highest weighted average daily membership based on the first nine (9) weeks of the current school year, the preceding school year or the second preceding school year of a school district, as determined by the provisions of subsection A of Section 18-201.1 of this title and paragraphs 1, 2, 3 and 4 of subsection B of Section 18-201.1 of this title.

b. Divide the district's adjusted assessed valuation of the current school year minus the previous year's protested ad valorem tax revenues held as prescribed in Section 2884 of Title 68 of the Oklahoma Statutes, by one thousand (1,000) and subtract the quotient from the product of subparagraph a of this paragraph. The remainder shall not be less than zero (0).

c. Multiply the number of mills levied for general fund purposes above the fifteen (15) mills required to support Foundation Aid pursuant to division (1) of subparagraph b of paragraph 1 of this subsection, not including the county four-mill levy, by the remainder of subparagraph b of this paragraph. The product shall be the Salary

E. By June 30, 1998, the State Department of Education shall develop and the Department and all school districts shall have implemented a student identification system which is consistent with the provisions of subsections C and D of Section 3111 of Title 74 of the Oklahoma Statutes. The student identification system shall be used specifically for the purpose of reporting enrollment data by school sites and by school districts, the administration of the Oklahoma School Testing Program Act, the collection of appropriate and necessary data pursuant to the Oklahoma Educational Indicators Program, determining student enrollment, establishing a student mobility rate, allocation of the State Aid Formula and mid-year adjustments in funding for student growth. This enrollment data shall be submitted to the State Department of Education in accordance with rules promulgated by the State Board of Education. Funding for the development, implementation, personnel training and maintenance of the student identification system shall be set out in a separate line item in the allocation section of the appropriation bill for the State Board of Education for each year.

F. 1. In the event that ad valorem taxes of a school district are determined to be uncollectible because of bankruptcy, clerical error, or a successful tax protest, and the amount of such taxes deemed uncollectible exceeds Fifty Thousand Dollars ($50,000.00) or an amount greater than twenty-five percent (25%) of ad valorem taxes per tax year, or the valuation of a district is lowered by order of the State Board of Equalization, the school district's State Aid, for the school year that such ad valorem taxes are calculated in the State Aid Formula, shall be determined by subtracting the net assessed valuation of the property upon which taxes were deemed uncollectible from the assessed valuation of the school district and the state. Upon request of the local board of education, it shall be the duty of the county assessor to certify to the Director of Finance of the State Department of Education the net assessed valuation of the property upon which taxes were determined uncollectible.

2. In the event that the amount of funds a school district receives for reimbursement from the Ad Valorem Reimbursement Fund is less than the amount of funds claimed for reimbursement by the school district due to insufficiency of funds as provided in Section 193 of Title 62 of the Oklahoma Statutes, then the school district's assessed valuation for the school year that such ad valorem reimbursement is calculated in the State Aid Formula shall be adjusted accordingly.

G. 1. Notwithstanding the provisions of Section 18-112.2 of this title, a school district shall have its State Aid reduced by an amount equal to the amount of carryover in the general fund of the district as of June 30 of the preceding fiscal year, that is in excess of the following standards for two (2) consecutive years:

Total Amount of General Fund Collections, Excluding Previous Year Cash Surplus as of June 30	Amount of General Fund Balance Allowable
Less than $1,000,000	40%
$1,000,000 - $2,999,999	35%
$3,000,000 - $3,999,999	30%
$4,000,000 - $4,999,999	25%
$5,000,000 - $5,999,999	20%

$6,000,000 - $7,999,999	18%
$8,000,000 - $9,999,999	16%
$10,000,000 or more	14%

2. By February 1 the State Department of Education shall send by certified mail, with return receipt requested, to each School District Superintendent, Auditor and Regional Accreditation Officer a notice of and calculation sheet reflecting the general fund balance penalty to be assessed against that school district. Calculation of the general fund balance penalty shall not include federal revenue. Within thirty (30) days of receipt of this written notice the school district shall submit to the Department a written reply either accepting or protesting the penalty to be assessed against the district. If protesting, the school district shall submit with its reply the reasons for rejecting the calculations and documentation supporting those reasons. The Department shall review all school district penalty protest documentation and notify each district by March 15 of its finding and the final penalty to be assessed to each district. General fund balance penalties shall be assessed to all school districts by April 1.

3. Any school district which receives proceeds from a tax settlement or a Federal Emergency Management Agency settlement during the last two (2) months of the preceding fiscal year shall be exempt from the penalties assessed in this subsection, if the penalty would occur solely as a result of receiving funds from the tax settlement.

4. Any school district which receives an increase in State Aid because of a change in Foundation and/or Salary Incentive Aid factors during the last two (2) months of the preceding fiscal year shall be exempt from the penalties assessed in this subsection, if the penalty would occur solely as a result of receiving funds from the increase in State Aid.

5. If a school district does not receive Foundation and/or Salary Incentive Aid during the preceding fiscal year, the State Board of Education may waive the penalty assessed in this subsection if the penalty would result in a loss of more than forty percent (40%) of the remaining State Aid to be allocated to the school district between April 1 and the remainder of the school year and if the Board determines the penalty will cause the school district not to meet remaining financial obligations.

6. Any school district which receives gross production revenue apportionment during the 2002-2003 school year or in any subsequent school year that is greater than the gross production revenue apportionment of the preceding school year shall be exempt from the penalty assessed in this subsection, if the penalty would occur solely as a result of the gross production revenue apportionment, as determined by the State Board of Education.

7. Beginning July 1, 2003, school districts that participate in consolidation or annexation pursuant to the provisions of the Oklahoma School Voluntary Consolidation and Annexation Act shall be exempt from the penalty assessed in this subsection for the school year in which the consolidation or annexation occurs and for the next three (3) fiscal years.

8. Any school district which receives proceeds from a sales tax levied by a municipality pursuant to Section 22-159 of Title 11 of the Oklahoma Statutes or proceeds from a sales tax levied by a county pursuant to Section 1370 of Title 68 of the Oklahoma Statutes during the 2003-2004 school year or the 2004-2005 school year shall be exempt from the penalties assessed in this subsection, if the penalty would occur solely as a result of receiving funds from the sales tax levy.

9. For purposes of calculating the general fund balance penalty, the terms “carryover” and “general fund balance” shall not include federal revenue.

H. In order to provide startup funds for the implementation of early childhood programs, State Aid may be advanced to school districts that initially start early childhood instruction at a school site. School districts that desire such advanced funding shall make application to the State Department of Education no later than September 15 of each year and advanced funding shall be awarded to the approved districts no later than October 30. The advanced funding shall not exceed the per pupil amount of State Aid as calculated in subsection D of this section per anticipated Head Start eligible student. The total amount of advanced funding shall be proportionately reduced from the monthly payments of the district’s State Aid payments during the last six (6) months of the same fiscal year.

I. 1. Beginning July 1, 1996, the Oklahoma Tax Commission, notwithstanding any provision of law to the contrary, shall report monthly to the State Department of Education the monthly apportionment of the following information:

a. the assessed valuation of property,

b. motor vehicle collections,

c. R.E.A. tax collected, and

d. gross productions tax collected.

2. Beginning July 1, 1997, the State Auditor and Inspector's Office, notwithstanding any provision of law to the contrary, shall report monthly to the State Department of Education the monthly apportionment of the proceeds of the county levy.

3. Beginning July 1, 1996, the Commissioners of the Land Office, notwithstanding any provision of law to the contrary, shall report monthly to the State Department of Education the monthly apportionment of state apportionment.

4. Beginning July 1, 1997, the county treasurers' offices, notwithstanding any provision of law to the contrary, shall report monthly to the State Department of Education the ad valorem tax protest amounts for each county.

5. The information reported by the Tax Commission, the State Auditor and Inspector's Office, the county treasurers' offices and the Commissioners of the Land Office, pursuant to this subsection shall be reported by school district on forms developed by the State Department of Education. **(70-18-200.1)**

Section 423. (Omitted)

Section 423.1. Weighted ADM.

A. Beginning with the 1997-98 school year, and each school year thereafter, the weighted membership of a school district for calculation of Foundation Aid purposes pursuant to paragraph 1 of subsection D of Section 18-200.1 of this title shall be the sum of the weighted pupil grade level calculation, the weighted pupil category calculation, the weighted district calculation and the weighted teacher experience and degree calculation. The weighted membership of a school district for calculation of Salary Incentive Aid purposes pursuant to paragraph 3 of subsection D of Section 18-200.1 of this title shall be the sum of the weighted pupil grade level calculation, the weighted pupil category calculation, the weighted district calculation, and the weighted teacher experience and degree calculation.

B. The weighted calculations provided for in subsection A of this section shall be based on the highest weighted average daily membership of the first nine (9) weeks of the current school year, the preceding school year or the second preceding school year of a school district, unless otherwise specified. The highest of the three (3) weighted average daily memberships shall be used consistently in all of the calculations; however, the portion of weighted membership derived from nonresident, transferred pupils enrolled in online courses shall be based on the weighted average daily membership of the first nine (9) weeks of the current school year. The average daily membership data used for all calculations in paragraphs 1, 2, 3 and 4 of this subsection shall be the same as used in the calculation of the State Aid Formula. The weighted calculations provided for in subsection A of this section shall be determined as follows:

1. The weighted pupil grade level calculation shall be determined by taking the highest average daily membership and assigning weights to the pupils according to grade attended as follows:

	GRADE LEVEL	WEIGHT
a.	Half-day early childhood programs	.7
b.	Full-day early childhood programs	1.3
c.	Half-day kindergarten	1.3
d.	Full-day kindergarten	1.5
e.	First and second grade	1.351
f.	Third grade	1.051
g.	Fourth through sixth grade	1.0

h.	Seventh through twelfth grade	1.2
i.	Out-of-home placement	1.50

Multiply the membership of each subparagraph of this paragraph by the weight assigned to such subparagraph of this paragraph and add the totals together to determine the weighted pupil grade level calculation for a school district. Determination of the pupils eligible for the early childhood program weight shall be pursuant to the provisions of Section 1-114 of this title. The pupils eligible for the out-of-home placement pupil weight shall be students who are not residents of the school district in which they are receiving education pursuant to the provisions of subsection D of Section 1-113 of this title. Such weight may be claimed by the district providing educational services to such student for the days that student is enrolled in that district. If claimed, the out-of-home placement weight shall be in lieu of the pupil grade level and any pupil category w eights for that student. Provided, if a student resides in a juvenile detention center that is restricted to less than twelve (12) beds, the out-of-home placement pupil weight for such students shall be calculated as follows: for a center with six (6) beds - 3.0; for a center with eight (8) beds - 2.3 and for a center with ten (10) beds - 1.80.

2. The weighted pupil category calculation shall be determined by assigning a weight to the pupil category as follows:

	CATEGORY	**WEIGHT**
a.	Vision Impaired	3.8
b.	Learning Disabilities	.4
c.	Deaf or Hard-of-Hearing	2.9
d.	Deaf and Blind	3.8
e.	Educable Mentally Handicapped	1.3
f.	Emotionally Disturbed	2.5
g.	Gifted	.34
h.	Multiple Handicapped	2.4
I.	Physically Handicapped	1.2
j.	Speech Impaired	.05
k.	Trainable Mentally Handicapped	1.3
l.	Bilingual	.25
m.	Special Education Summer Program	1.2
n.	Economically Disadvantaged	.25
o.	Optional Extended School Year Program	As determined by the State Board of Education

Except as otherwise provided, multiply the number of pupils approved in the school year with the highest average daily membership in each category by the weight assigned to such category and add the totals together to determine the weighted pupil category calculation for a school district. For the 1996-97 school year, the number to be multiplied by the weight assigned to the gifted category in subparagraph g of this paragraph shall be the lesser of (1) the sum of the number of students who scored in the top three percent (3%) on any national standardized test of intellectual ability plus the number of students identified as gifted pursuant to subparagraphs a through d of paragraph 1 of Section 1210.301 of this title or (2) the sum of the number of students who scored in the top three percent (3%) on any national standardized test of intellectual ability plus eight percent (8%) of the total average daily membership of the school district for the preceding school year. For the 1997-98 school year and subsequent school years, the number to be multiplied by the weight assigned to the gifted category in subparagraph g of this paragraph shall be the lesser of (1) the sum of the number of students who scored in the top three percent (3%) on any national standardized test of intellectual ability plus the number of students identified as gifted pursuant to subparagraphs a through d of paragraph 1 of Section 1210.301 of this title, or (2) the sum of the number of students who scored in the top three percent (3%) on any national standardized test of intellectual ability plus eight percent (8%) of the total average daily membership of the school district for the first nine (9) weeks of the school year.

3. The weighted district calculation shall be determined by determining the calculations for each school district for both the small school district formula and the district sparsity - isolation formula, applying whichever is the greater of the calculations of the two formulas and then applying the restrictions pursuant to subparagraph c of this paragraph.

a. Small school district formula: 529 minus the average daily membership divided by 529 times .2 times total average daily membership.

The small school district formula calculation shall apply only to school districts whose highest average daily membership is less than 529 pupils. School districts which are consolidated or annexed after July 1, 2003, pursuant to the Oklahoma School Voluntary Consolidation and Annexation Act shall have the weighted district size calculation for the three (3) school years following the fiscal year in which such consolidation occurred calculated to be the sum of the individual consolidated districts computed as if the consolidation had not taken place. Thereafter, any such district which is consolidated pursuant to the Oklahoma School Voluntary Consolidation and Annexation Act shall not qualify for the weighted district calculation unless the district can satisfy the specifications herein. Subject to the provisions of subparagraph c of this paragraph, the resulting number shall be counted as additional students for the purpose of calculating State Aid.

b. District sparsity - isolation formula:

The district sparsity - isolation formula calculation shall apply only to school districts:

(1) whose total area in square miles is greater than the average number of square miles for all school districts in this state; and

(2) whose areal density is less than one-fourth (1/4) of the state average areal density. Areal density shall be determined by dividing the school district's average daily membership by the school district's total area in square miles.

The district sparsity - isolation formula calculation shall be calculated as follows:

The school district student cost factor multiplied by the school district area factor. The resulting product shall be multiplied by the school district's average daily membership. Subject to the provisions of subparagraph c of this paragraph, the resulting number shall be counted as additional students for the purpose of calculating State Aid.

The school district student cost factor shall be calculated as follows:

The school district's average daily membership shall be categorized into the following grade level groups and applied to the appropriate formulas as computed below:

Grade Level Group

Grade Level Group	
Grades K-5	Divide 74 by the sum of the Grade Level ADM plus 23, add .85 to the quotient, then multiply the sum by the Grade Level ADM
Grades 6-8	Divide 122 by the sum of the Grade Level ADM plus 133, add .85 to the quotient, then multiply the sum by the Grade Level ADM.
Grades 9-12	Divide 292 by the sum of the Grade Level ADM plus 128, add .78 to the quotient, then multiply the sum by the Grade Level ADM.

The sum of the grade level group's average daily membership shall be divided by the school district's average daily membership. The number one (1.0) shall be subtracted from the resulting quotient.

The school district area cost factor shall be calculated as follows:

Subtract the state average district area from the district area, then divide the remainder by the state average district area;

however, the district area cost factor shall not exceed one (1.0).

The State Board of Education shall define geographical barriers whose location in a school district would inhibit the district from consolidation or annexation. The Board shall make available an application process, review applications, and for districts the Board deems necessary allow additional square miles to be used for the purposes of calculations used for the weighted district sparsity - isolation formula. Provided, that the additional square miles allowed for geographical barriers shall not exceed thirty percent (30%) of the district's actual size.

c. State Aid funds which a district is calculated to receive as a result of the weighted district calculation shall be restricted as follows:

If, after the weighted district calculation is applied, the district's projected per pupil revenue exceeds one hundred fifty percent (150%) of the projected state average per pupil revenue, then the district's State Aid shall be reduced by an amount that will restrict the district's projected per pupil revenue to one hundred fifty percent (150%) of the projected state average per pupil revenue. Provided, in applying the restriction provided in this division, the district's State Aid shall not be reduced by an amount greater than by the amount of State Aid which was generated by the weighted district calculation.

The July calculation of the projected per pupil revenue shall be determined by dividing the highest of the district's preceding two years average daily membership (ADM) as weighted by the pupil grade level, the pupil category, the district and the teacher experience degree index calculations for projected State Aid into the district's projected total revenues including projected funds for the State Aid Formula for the preceding year, net assessed valuation for the preceding calendar year times thirty-nine (39) mills, county revenues excluding the county four-mills revenues for the second preceding year, other state appropriations for the preceding year and the collections for the preceding year of state apportionment, motor vehicle revenue, gross production tax and R.E.A. tax.

The December calculation of the projected per pupil revenue shall be determined by dividing the highest of the district's first nine (9) weeks of the current school year or the two preceding school years average daily membership (ADM) as weighted by the pupil grade level, the pupil category, the district and the teacher experience degree index calculations for projected State Aid into the district's projected total revenues including funds for the December calculation of the current year State Aid Formula, net assessed valuation for the current calendar year times thirty-nine (39) mills, county revenues excluding the county four-mills revenue for the preceding year, other state appropriations for the preceding year and the collections for the preceding year of state apportionment, motor vehicle revenue, gross production tax and R.E.A. tax.

The district's projected total revenues for each calculation shall exclude the following collections for the second preceding year: federal revenue, insurance loss payments, reimbursements, recovery of overpayments and refunds, unused reserves, prior expenditures recovered, prior year surpluses, and other local miscellaneous revenues.

4. The weighted teacher experience and degree calculation shall be determined in accordance with the teacher experience and degree index. The State Department of Education shall determine an index for each state teacher by using data supplied in the school district's teacher personnel reports of the preceding year and utilizing the index as follows:

TEACHER EXPERIENCE - DEGREE INDEX

EXPERIENCE	BACHELOR'S DEGREE	MASTER'S DEGREE	DOCTOR'S DEGREE
0 - 2	.7	.9	1.1
3 - 5	.8	1.0	1.2
6 - 8	.9	1.1	1.3
9 - 11	1.0	1.2	1.4

12 - 15	1.1	1.3	1.5
Over 15	1.2	1.4	1.6

The school district teacher index for each school district shall be determined by subtracting the weighted average state teacher from the weighted average district teacher. Multiply the school district teacher index if greater than zero by .7 and then multiply that product by the sum of the district's weighted pupil grade level calculation provided in paragraph 1 of this subsection and the weighted pupil category calculation provided in subparagraph n of paragraph 2 of this subsection to determine the weighted teacher experience and degree calculation. **(70-18-201.1)**

Note: Amended by SB 141, Sec. 1 of the 2011 Reg. Sess.

Section 424. Oklahoma School Land Fund.

If the amendment to Section 3 of Article XI of the Constitution of the State of Oklahoma contained in Enrolled House Joint Resolution No. 1005 of the 1st Extraordinary Session of the 42nd Oklahoma Legislature is approved by the people, there is hereby created in the State Treasury a special fund to be designated the "Oklahoma School Land Fund". The fund shall consist only of those monies described in Section 3 of Article XI of the Oklahoma Constitution and apportioned to the fund by law. Monies in the fund shall be used only for the purpose of financing common education in this state through the State Aid Formula. **(70-18-300)**

Section 425. Education Reform Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the State Board of Education to be designated the "Education Reform Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all appropriations and transfers made by the Legislature. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended beginning with the fiscal year ending June 30, 1993, by the State Board of Education for the purposes of implementing reforms contained in Enrolled House Bill No. 1017 of the First Extraordinary Session of the 42nd Oklahoma Legislature. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the director of State Finance for approval and payment. **(70-18-400)**

Section 426. Driver's Education - Purpose.

The aims and purposes of driver's education shall be to develop a knowledge of those provisions of the laws of this state relating to the operation of motor vehicles, a proper acceptance of personal responsibility in traffic, a true appreciation of the causes, seriousness, and consequences of traffic accidents, and to develop the knowledge, attitudes, habits, and skills necessary for the safe operation of motor vehicles. **(70-19-113)**

Section 427. Automobile Driver Education for Pupils.

The school board of any school district maintaining a secondary school, which includes any of the grades nine through twelve, inclusive, may establish and maintain automobile driver education for students that attend secondary public schools in that district. Only students who are enrolled and passing in all of the core curriculum courses appropriate for their grade levels shall be allowed to enroll in driver education courses during the regular school day. **(70-19-114)**

Section 428. Programs for Driver Education.

A. The establishment, conduct and scope of the driver education program for secondary schools shall be the program established by rules adopted and promulgated by the State Board of Education, subject to the requirements and exceptions set forth in Section 19-113 et seq. of this title. Said program shall be established and maintained only in accordance with such rules and laws. The State Superintendent of Public Instruction shall prepare an administrative budget from funds made available under this article, which budget shall be approved by the State Board of Education. It shall be the responsibility of the State Superintendent of Public Instruction to appoint supervisors of safety education and the necessary clerical personnel.

B. The State Department of Education shall designate or employ a state coordinator of driver education programs to provide oversight of all driver education programs throughout the state. The responsibilities of such coordinator shall include, but not be limited to:

1. Assuring quality driver education programs in this state;

2. Serving as a liaison between the State Department of Education and the Department of Public Safety;

3. Promoting driver safety throughout the state; and

4. Coordinating the activities of the supervisors of safety education and the necessary clerical staff. **(70-19-115)**

Section 429. Eligibility of Students.

Each school district providing driver education shall prescribe regulations determining who can best benefit by and who shall receive instruction under this program. **(70-19-116)**

Note: See Section 842 and 842.1 for Driver Education Qualifications.

Section 430. Report by School Districts.

Each school district shall report annually to the State Superintendent of Public Instruction the cost of instructing pupils during the preceding year in driver education, the number of pupils actually enrolled and trained in such course during the preceding year, and such other information as may be required for the computation of the cost incurred therein. **(70-19-117)**

Section 431. Cost of Program.

A determination of the cost of a driver education program in a secondary school shall include the cost of the replacement of the automobile or machinery used in the instruction of pupils, the cost of the instructor's salary, the upkeep and maintenance of said automobiles, and the cost of such other equipment and classroom data as may be required in a driver education program operated in compliance with the rules and regulations of the State Board of Education. **(70-19-118)**

Section 432. Compliance with Rules and Regulations.

No reimbursement shall be made to a school district for the instruction of pupils in driver education unless the school district has provided such instruction pursuant to state law and has compiled with the rules set forth by the State Board of Education governing the establishment, conduct, and scope of driver education. **(70-19-120)**

Section 433. Authority of State Board of Education.

The State Board of Education is hereby authorized and empowered to promulgate rules and regulations to carry out the aims and purposes established in Section 38 of this act. The State Board of Education is authorized to acquire in compliance with the law for cash, lease, or by lease-purchase agreement all the necessary equipment, visual and training aids and devices, and related materials required. **(70-19-121)**

Section 433.1. Drivers Education Funding.

Contingent upon the availability of funds, monies appropriated to the State Board of Education for the Driver Education program shall be allocated to each school district which provided a driver education program during the preceding fiscal year in accordance with state law and the rules established by the State Board of Education. Contingent upon funds being made available, allocations to each school district shall be reimbursed on a first-come first-serve basis as provided below:

1. In the amount of Ninety-five Dollars ($95.00) per pupil for courses offered before or after the regular school day; and

2. In the amount of Eighty-two Dollars and fifty cents ($82.50) per pupil for courses offered during the regular school day, the summer, or on Sunday. **(70-19-122)**

Section 433.2. Certification and Reinstatement.

Any person who held a valid certificate to teach driver education in this state, between 1980 and the effective date of this act, and whose certificate has lapsed shall be eligible to have the certification to teach driver education reinstated upon request provided the person is otherwise eligible for teacher certification. **(70-19-123)**

Section 434. Definitions.

As used in Sections 21-101 through 21-203 of this title:

1. "Private school" means any privately owned business school, trade school, or other school offering courses to residents of, or correspondence courses from Oklahoma in any business, professional, trade, technical, or industrial occupation for consideration or remuneration. The term private school shall not include barber schools, beauty schools, or other schools which are regulated or licensed pursuant to the provisions of any school licensing law of this state. Any barber schools, beauty schools, or other schools, of their own volition, may apply and be licensed pursuant to the provisions of Section 21-103 of this title if they meet the criteria for approval established by the Oklahoma Board of Private Vocational Schools. Said licensing shall not preclude such schools from complying with any present or future legislation dealing directly with such schools. In addition, such term shall not be construed to include any form of flight instruction subject to regulations promulgated by the Federal Aviation Administration, or to include parochial, private, or other nonpublic schools offering programs of general education, accredited by the State Board of Education or the State Board of Regents for Higher Education;

2. "Board" means the Oklahoma Board of Private Vocational Schools;

3. The term "in-state branch" means any private school located within this state which offers substantially the same curriculum as is offered at its in-state main school; and

4. The term "out-of-state branch" means any out-of-state private school, located in the same state as its main school, which offers substantially the same curriculum as is offered as its main school. **(70-21-101)**

> The elements to consider in determining whether an unincorporated, non-profit foundation which sponsors a seminar where an attendance fee is charged is a "private school" for purposes of regulation by the Oklahoma Board of Private Vocational Schools are as follows:
>
> (1) is there a school; (2) is it privately owned; (3) does it offer training in business, professional, trade, technical, or industrial occupation; and (4) does it charge a fee. If all other elements for licensure are present, there is no exemption from licensure for such a school based on the length or frequency of the seminar. However, the rules of the Board permit such a school, where it otherwise falls under the definition of a private vocational school, to be licensed as a seminar. *June 25, 1991. (AG Inf. Op. No. 91-535)*

Section 435. Oklahoma Board of Private Vocational Schools.

A. There is hereby re-created the Oklahoma Board of Private Vocational Schools which shall consist of nine (9) members of whom three shall be the Director of the Oklahoma Department of Career and Technology Education, the Chancellor of the Oklahoma State Regents for Higher Education and the State Superintendent of Public Instruction or their designated representatives and of whom six shall be appointed by the Governor of the State of Oklahoma subject to the advice and consent of the Senate. Four persons shall qualify to serve on the Board provided they occupy and have occupied for the past three (3) years executive or managerial positions in private schools located in this state of the type regulated under Sections 21-101 through 21-115 of this title. Two persons shall qualify to serve on said Board provided they occupy and have occupied for the past three (3) years executive or managerial positions in business or industry, not connected with private schools. Each of the six persons shall be appointed for a term of six (6) years. After July 1, 1970, the Governor shall appoint one member for a term of six (6) years, one member for a term of five (5) years, one member for a term of four (4) years, one member for a term of three (3) years, one member for a term of two (2) years and one member for a term of one (1) year.

B. The Board is authorized to appoint and fix the compensation of a director. The Director shall employ and fix the duties and compensation of such clerical or other assistants as are reasonably necessary to effectuate the provisions of Sections 21-101 through 21-115 of this title.

C. Personnel employed by the Oklahoma Board of Private Schools on June 30, 1986, shall become employees of the Oklahoma Board of Private Vocational Schools on July 1, 1986, without change in status as to duties and compensation, including accrual of leave, and eligibility for longevity payments and other benefits of employment except as otherwise provided by law. **(70-21-102)**

Section 436. Private School Licenses.

A. It shall be unlawful to establish, conduct, operate or maintain a private school or to solicit or canvass for scholarships or tuition to a private school unless a license to operate such school has been issued by the Board and is in effect. The Board shall issue a private school license upon determination that such school meets the standards fixed by the Board. A private school shall be issued only one license, regardless of the number of locations operated by such school.

B. Except as is otherwise provided by law, the Board is authorized, subject to the provisions of the Administrative Procedures Act, to prescribe such penalties as it may deem proper for the enforcement of Sections 21-101 through 21-112 of this title, not to exceed One Thousand Dollars ($1,000.00). **(70-21-103)**

This section requires the Board of Private Vocational Schools to license vocational training provided solely to inmates in a privately operated correctional facility when such training involves a business, professional, trade, technical, or industrial occupation and such training is provided in exchange for consideration or remuneration. *January 13, 2000 (AG Op. No. 00-3)*

Section 437. Private School Solicitor's Permit.

It shall be unlawful for any person, acting as an agent or representative of a private school giving resident instruction or instruction by correspondence, whether such private school be located inside or outside the State of Oklahoma, to canvass or solicit prospective students in the State of Oklahoma, except on the established and legal premises of said school, for the purpose of selling to such student any scholarship or tuition in the private school, or to take payment £or the same in money, notes or other evidence of indebtedness, unless the private school has been licensed under Section 21-103 of this title, and unless a private school solicitor's permit for such purpose has been issued to such person. **(70-21-104)**

Section 438. Application for a License or Permit.

Applications for a private school license or a private school solicitor's permit shall be filed with the Board in the manner and upon forms from the Board. **(70-21-105)**

Section 439. Expiration and Renewal of Licenses and Permits - Bonds - Fees - Private School Fund - Personnel.

A. A license issued pursuant to the provisions of Section 21-103 of this title shall expire on June 30 following the date of issue. Said license may be renewed annually with the renewal application due not less than sixty (60) days prior to expiration, if the Board determines that such school remains in compliance with the standards or other requirements set by the Board. The license of any regionally or nationally accredited school within this state may be revoked if the school is found to be in violation of the Oklahoma Statutes.

B. A license of a school shall not be effective unless the private school has filed with the Board a corporate surety bond or a certificate of deposit in a manner and in an amount as is required by the Board.

C. Private schools shall pay the following base fee per license issued by the Board:

1. A fee of One Thousand Two Hundred Dollars ($1,200.00) shall be paid to the Board for the issuance of a new license pursuant to the provisions of Section 21-103 of this title;

2. For each renewal of a license, a fee based on the total tuition collected by the school as shown in the current financial statement of the school shall be paid to the Board as follows:

TUITION INCOME	RENEWAL FEE
$50,000.00 or less	$ 700.00
$50,001.00 to $250,000.00	$ 800.00
$250,001.00 to $500,000.00	$ 950.00
$500,001.00 to $1,000,000.00	$1,100.00
$1,000,001.00 to $3,000,000.00	$1,300.00
$3,000,001.00 and above	$1,500.00;

3. During the first licensing period of a school, a fee of Two Hundred Dollars ($200.00) shall be paid to the Board for the issuance of each solicitor's permit pursuant to the provisions of Section 21-104 of this title. For the second and consecutive licensing periods of the school a fee of One Hundred Dollars ($100.00) shall be paid to the Board for the issuance of each permit and a fee of One Hundred Dollars ($100.00) shall be paid to the Board for each renewal of a permit. In addition to the fees required by this section, each private school shall pay an additional fee of Three Hundred Dollars ($300.00) for each in-state branch and a fee of Three Hundred Dollars ($300.00) for each out-of-state branch. Each branch which is not located in the same state as its main school or which does not offer substantially the same curriculum as is offered at the main school shall be considered to be a separate private school;

4. A fee of Fifty Dollars ($50.00) shall be paid to the Board for the approval of a new catalog or changes to an approved catalog. A fee of Twenty-five Dollars ($25.00) shall be paid to the Board whenever a private school or branch school changes location; and

5. A fee of One Hundred Dollars ($100.00) shall be paid by each school to the Board for attendance at a school workshop by any of the school's personnel. At least one person from each school who is responsible for the operation of the school shall be required to participate in an annual workshop conducted by the Board. The Board shall develop and administer the workshops which emphasize rules relating to relicensing and daily operation of a school.

Upon application for a license or renewal of a license, each private school shall designate a main school location.

D. The Board may send licensing inquiry packets to persons requesting information about private school licensing requirements. The fee for each licensing inquiry packet shall be Twenty-five Dollars ($25.00).

E. All fees, penalties and fines collected by the Board pursuant to the provisions of this section and Section 21-103 of this title shall be deposited with the State Treasurer for credit to the Oklahoma Board of Private Vocational Schools Revolving Fund created in Section 4 of this act.

F. If the annual renewal fee is not paid on or before the first day of July, such fee shall become delinquent and the license shall not be renewed except upon payment of a delinquent annual renewal fee. The delinquent annual renewal fee may be assessed in an amount and manner prescribed by the Board, not to exceed Five Hundred Dollars ($500.00). **(70-21-106)**

Section 440. Minimum Standards.

The Board shall fix minimum standards for private schools, which shall include standards for courses of instruction and training, qualifications of instructors, financial stability, advertising practices, and refund of tuition fees paid by student for courses of instruction or training not completed, and shall promulgate and adopt reasonable rules and regulations for the implementation of such minimum standards for the operation of private schools. **(70-21-107)**

Oklahoma Board of Private Schools is not required by law to secure and keep student records of a private school that has ceased doing business. *December 10, 1979 (AG Op. No. 79-271)*

Section 441. Revocation of License or Permit Nontransferability.

A license or permit issued or renewed under the provisions of this act may, after reasonable notice to the private school and an opportunity to be heard, be revoked by the Board for a failure of the private school to maintain the accreditation or the minimum standards fixed by the Board by which such private school obtained its license, or to maintain the bond required by Section 6 of this act, or for a violation of any of the rules and regulations pertaining to minimum standards of the Board No license or permit issued under this act shall be transferable. **(70-21-108)**

License of accredited school can be revoked when school fails to maintain accreditation, or fails to maintain bond, or violates regulations pertaining to standards of operation. *AG Op. March 27, 1971*

Section 442. Enforcement of Act.

The Attorney General or any local prosecuting officer, at the request of the Board or on his own motion, may bring any appropriate action or proceeding in any court of competent jurisdiction for the enforcement of this act. **(70-21-109)**

Section 443. Judicial Review.

Any action of the Board respecting the issuance, denial, or revocation of a permit pursuant to Section 3, 4, 5, 6 and 8 of this act shall be subject to judicial review by the district court having jurisdiction. **(70-21-110)**

Section 444. Penalties.

Any person violating any of the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred Dollars ($100.00) nor more than Two Thousand Five Hundred Dollars ($2,500.00), or by imprisonment for a period of time not to exceed thirty (30) days. **(70-21-111)**

Section 445. Tax Status.

Nothing in this act shall be intended to give these private schools tax exemption status except as provided by law. **(70-21-112)**

Section 445.1. Oklahoma Board of Private Vocational Schools Fund.

A. There is hereby created in the State Treasury a fund designated the "Oklahoma Board of Private Vocational Schools Fund". The Fund shall be subject to legislative appropriations and certification by the Board of Equalization. The Fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Oklahoma Board of Private Vocational Schools from all fees and penalties collected by the Board pursuant to Section 21-103, 21-106, and 21-111 of Title 70 of the Oklahoma Statutes or rules promulgated and any other funds obtained or received by the Board. All monies in the Fund shall be used exclusively for the purpose of operations and functions of the Oklahoma Board of Private Vocational Schools.

B. Any balance remaining to the credit of the Private Vocational Student Tuition Recovery Fund which accrued prior to the repeal of the Fund shall be transferred to the Oklahoma Board of Private Vocational Schools Fund created in this section. **(70-21-116)**

Section 446 - 449. (Omitted)

Section 450. Official Title of Law.

This article may be cited as the "Oklahoma Public School Audit Law." **(70-22-101)**

Section 451. Definition of Public School.

The term "public school" as used herein shall include a school district as provided in the Oklahoma Statutes. The

term “auditor” as used herein means a person or partnership who makes an audit and prepares a report thereon as provided in this article. **(70-22-102)**

Section 452. Annual Audits Required - Others Authorized.

A. The board of education of each school district in this state shall provide for and cause to be made an annual audit of such school district for each fiscal year. Said audit shall be a financial audit and a compliance audit of all funds of the school district, including the records of all student activity funds designated in Section 5-129 of this title. Such audit or audits shall be made at the end of the fiscal year; provided, however, the local board of education may require that audits be made at more frequent intervals.

B. Findings of material weaknesses, qualifications of the auditor's report and of defalcations, or a report of lack of such findings, shall be communicated in writing to the board. Upon completion of an audit, the auditor shall conduct the final exit interview at a meeting of the board. No part of the final exit interview shall be conducted with any employee of the board except in open meeting of the board; provided, portions of the final exit interview related to matters which the board is authorized by law to consider in executive session may be so considered. **(70-22-103)**

Section 453. Standards - Qualifications of Accountants Liability Insurance.

A. 1. The audit of the financial statements and compliance requirements of each public school district shall be made in accordance with auditing standards generally accepted in the United States as defined by the American Institute of Certified Public Accountants or its successor organization and shall comply with the most recent Government Auditing Standards issued by the United States Government Accountability Office.

2. The auditor’s opinions shall state whether the financial statements of the school district were prepared in accordance with:

a. accounting principles generally accepted in the United States, or

b. accounting and financial reporting regulations prescribed or permitted by the State Department of Education,

3. The auditor shall also report in accordance with:

a. Government Auditing Standards on the school district’s internal control over financial reporting and compliance with certain provisions of laws, regulations, contracts, grant agreements and other matters, and

b. the United States Office of Management and Budget Circular A-133, as required.

B. All firms, as defined by the Oklahoma Accountancy Act, before entering into audit contracts required pursuant to the Oklahoma Public School Audit Law, shall satisfy the State Auditor and Inspector that the registrant, as defined by the Oklahoma Accountancy Act, has an individual responsible for the audits of school districts who:

1. Has at least two (2) years of experience auditing public entities;

2. Has completed a minimum of eight (8) clock hours of continuing education credit in school district accounting and auditing as defined by the Governmental Accounting Standards Board (GASB) and the Office of the Comptroller General during the prior year; and

3. Is licensed by and is in good standing with the Oklahoma Accountancy Board.

C. Firms shall submit their application to perform audits of a school district with their most recent peer review, which must include the audit of at least one school district, if the firm has performed such an audit, and any letter of comment for approval or disapproval by the State Auditor and Inspector for the current audit year on or before the first day of January of each calendar year.

D. 1. Until June 30, 2014, all firms entering into audit contracts required pursuant to the Oklahoma Public School Audit Law shall carry a minimum of Two Hundred Fifty Thousand Dollars ($250,000.00) accountants' professional liability insurance or the total amount of the budget being audited, whichever is less.

2. Beginning July 1, 2014, all firms entering into audit contracts required pursuant to the Oklahoma Public School Audit Law shall carry a minimum of Five Hundred Thousand Dollars ($500,000.00) accountants' professional liability insurance or the total amount of the budget being audited, whichever is less.

3. Proof of such insurance shall be submitted to the State Auditor and Inspector prior to entering into a contract. **(70-22-104)**

Section 454. Expenses.

The expenses of audits required by this article, whether ordered by the local board of education or the State Board of Education, shall be paid by the local board of education for which the audit is made. It shall be the duty of the board of education of the local public school to make provision for payment of said expenses. **(70-22-105)**

Section 455. Preparation of Budgets and Financial Statements.

The board of education may employ persons other than those enumerated in Section 22-102 of this article for the preparation of the estimate of needs and financial statement for presentation to the county excise board. **(70-22-106)**

Section 456. Audit Reports - Contents.

Each report on audit of public schools shall contain at least the following:

1. A statement of the scope of examination;

2. The auditor's opinion as to whether the audit was made in accordance with generally accepted auditing standards as heretofore established;

3. The auditor's opinion as to whether the financial statements included in the audit report present fairly the results of the operations during the period audited;

4. The auditor's opinion as to whether the financial statements accompanying the audit report were prepared in accordance with generally accepted accounting principles applicable to schools and in accordance with the laws of the State of Oklahoma and the rules and regulations of the State Board of Education;

5. The reason or reasons an opinion is not rendered with respect to paragraphs 3 and 4 in the event the auditor is unable to express an opinion with respect thereto;

6. The auditor's opinion as to whether the school's budgetary and disbursement procedures conform to the requirements of the Oklahoma Statutes;

7. Financial statements presented in the form and manner approved by the State Board of Education so as to disclose the results of the operations of each fund of the public school. **(70-22-107)**

Section 457. Audit Reports - Time to Complete - Distribution.

A. Each audit of the financial statements of a school district required by the Oklahoma Public School Audit Law shall be completed and the auditor's opinion thereon shall be submitted by the firm to the district board of education within nine (9) months after the close of the fiscal year of the district board of education.

B. One copy of the auditor's opinions and related financial statements shall be maintained by the district board of education as a public record for public inspection at all reasonable times at the office of the district board of education. All records shall be kept at least five (5) years.

C. The district board of education shall forward a copy of the auditor's opinions and related financial statements to the State Board of Education and the State Auditor and Inspector within thirty (30) days after receipt of the audit. The State Board of Education shall retain such copy in its office as a public record where it shall be available for public inspection at all reasonable times.

D. The State Board of Education may make inquiries it deems necessary to determine that each district board of education is properly complying with the Oklahoma Public School Audit Law. If within eleven (11) months after the end of the fiscal year of the school district a copy of the auditor's opinions and related financial statements has not been received by the State Board of Education and by the State Auditor and Inspector, an inquiry shall be made by the State Auditor and Inspector as to why such auditor's opinions and related financial statements have not been filed, pursuant to the provisions of Section 212A of Title 74 of the Oklahoma Statutes. Should the State Auditor and Inspector find that the district board of education has failed to cause an annual audit of the financial statements and compliance requirements of the school district to be commenced, the State Auditor and Inspector shall make a written demand on the board to complete and file such annual audit of the financial statements and compliance requirements of the school district within thirty (30) days of the date of such demand.**(70-22-108)**

Section 458. Examination of Reports - Deficiencies.

The State Auditor and Inspector shall examine all auditor's opinions and related financial statements submitted to it and shall determine whether the auditor's opinions and related financial statements comply with the provisions of the Oklahoma Public School Audit Law. If the State Auditor and Inspector finds that they have not been complied with, the State Auditor and Inspector shall notify the district board of education and the firm that submitted the auditor's opinions and related financial statements by submitting to them a statement of deficiencies. If the deficiencies are not corrected within ninety (90) days from the date of the statement of deficiencies or within twelve (12) months after the end of the fiscal year of the school district, whichever is later, the State Auditor and Inspector shall make or cause an audit to be made in the manner provided for in Section 22-108 of this title. Any school district audited pursuant to this section shall pay for the cost of the audit as provided by Section 212A of Title 74 of the Oklahoma Statutes. **(70-22-109)**

Section 459. False Statements in Reports - False Information Penalty.

A. In any case where a firm has knowingly issued auditor's opinions and related financial statements, required under the provisions of the Oklahoma Public School Audit Law, containing any false or misleading statements, the State Auditor and Inspector shall report such violation in writing to the board of education of such school district and to the Oklahoma Accountancy Board. The State Auditor and Inspector shall revoke their rights to perform such audits in the future.

B. Any member of the governing body of the district board of education or any member, officer, employee or agency of any department, board or commission of the school district who knowingly and willfully furnishes to the firm or to an employee of the firm any false or fraudulent information shall be deemed guilty of malfeasance, and upon conviction, the court shall enter judgment that such person so convicted shall be removed from office or employment of the school district. It shall be the duty of the court rendering such judgment to cause immediate notice of such removal from office or employment to be given to the proper officer of the school district so that the vacancy thus caused may be filled. **(70-22-110)**

Section 460. Duties of Board of Education - Removal of Members.

It shall be the duty of each local board of education to cause such audits to be made in accordance with this article. It shall be the further duty of said board to file a copy of said audit with the proper authorities set forth in this article. Such filings shall not be later than thirty (30) days after completion of the audit. Any court of competent jurisdiction shall have the power to remove members of such board from office for violation of this article. **(70-22-111)**

Section 461. State Aid Withheld for Failure to Comply with Article.

All further payment of State Aid for each district shall be withheld until the provisions of this article have been fulfilled by said district. **(70-22-112)**

Section 462. State Board of Education to Prescribe Accounting Systems and Procedures.

All accounting systems and procedures used by the school districts of the State of Oklahoma shall conform with the accounting systems and procedures prescribed by the State Board of Education. **(70-22-113)**

Section 463. Purpose of Television Authority.

It is the intent of the Oklahoma Legislature and the purpose of this article to make educational television services available to all Oklahoma citizens on a coordinated statewide basis. Said educational television services shall be provided by and through the various educational and cultural agencies in the State of Oklahoma under the direction and supervision of the Oklahoma Educational Television Authority hereinafter created.

The Oklahoma Educational Television Authority is hereby authorized and empowered to plan, construct, repair, maintain and operate educational television facilities with channels assigned by the Federal Communications Commission to the State of Oklahoma for educational television purposes. The purpose of said Authority shall be to provide a statewide educational television system, including any arrangements for extension thereof and interchanges and rental may be necessary in establishing such statewide facilities.

The Oklahoma Educational Television Authority is hereby authorized to issue revenue bonds of the Authority payable solely from dedicated revenues to pay the cost of providing educational television facilities as authorized in this article. Such revenue bonds shall never become obligations of the State of Oklahoma, but shall be retired by the Authority as provided in this article. Such revenue bonds shall contain on the face thereof a statement to the effect that neither the state nor the Authority shall be obligated to pay the same or the interest thereon except from revenues dedicated by the Legislature, and that neither the faith and credit nor the taxing power of the state or any political subdivision thereof is pledged, or may hereafter be pledged, to the payment of the principal of, or the interest on, such bonds. **(70-23-101)**

Section 464. Advertising Unlawful.

It shall be unlawful for the Authority to permit any individual, company, corporation, or organization to advertise or otherwise attempt to sell its products or services through the use of the facilities controlled by the Authority; and it shall also be unlawful for said Authority to permit any individual or organization to in any way sponsor the election of any party or individual for any public office; provided, however, that nothing in this section shall be construed in a manner which would exclude announcements and programs of nonprofit charitable and educational organizations which are for the public good. Information programs sponsored by legally authorized agencies of the state and federal governments for the public good are to be considered proper program material. Provided further, that the influence, direction or attempt to influence or direct the program content or programs shown on public television by an elected official or his representative for the purposes of personal gain or political benefit, direct or indirect, shall be unlawful and that violation of this section shall be a misdemeanor punishable by a fine not to exceed One Thousand Dollars ($1,000.00) or imprisonment not to exceed one (1) year, or both. **(70-23-102)**

> Oklahoma Educational Television Authority cannot accept advertisements in its monthly publication of ODYSSEY if any education television "facilities" are used in the process of publication. *December 19, 1979 (AG Op. No. 79-339)*

Section 465. Definitions.

As used in this article, unless the context indicates otherwise:

1. "State Department of Education" means that department of the state government in which are placed the agencies created or authorized by the Constitution and Legislature charged with the responsibility of determining the policies and directing the administration and supervision of the common school system of the state. These agencies are the State Board of Education, the State Superintendent of Public Instruction, and such divisions and positions as may be established by law or by the State Board of Education.

2. "State Board of Education" means that agency in the State Department of Education which is the governing board of said Department and of the common school system of the state.

3. "State Superintendent of Public Instruction" means the elected official provided for in Article VI, Section I of the Constitution of Oklahoma, who is the executive officer of the State Board of Education.

4. "Oklahoma State Regents for Higher Education" means that body created by Article XIII-A of the Constitution of Oklahoma to coordinate the affairs of all institutions of higher learning supported by taxation in the State of Oklahoma.

5. "Common schools of Oklahoma" means all private schools and all schools supported by public taxation, and including elementary and secondary schools, the first two (2) years of junior college, night school, adult and other special classes, and vocational instruction.

6. "Institutions of higher learning" means all private institutions and all the state universities and colleges which are supported by public taxation or otherwise authorized by laws in effect or enacted hereinafter.

7. "Authority" means the Oklahoma Educational Television Authority created by Section 23-105 of this article, or, if said Authority shall be abolished, the board, body, or commission succeeding to the principal functions of said Authority, or to whom the power is given by law.

8. "Facilities" means channels, all equipment, and properties, including the construction and operation thereof at any given point together with all rights, easements, leases, and interests which may be acquired by the Authority for such construction and operation which may be deemed necessary for the accomplishment of the purposes set forth in Section 23-101 of this article.

9. "Cost" as applied to the facilities means the cost of construction including the acquisition of all land, rights-of-way, property, rights, easements, and interest acquired by the Authority for such construction; all machinery and equipment, financing charges, interest prior to and during construction; engineering and legal expenses, plans, specifications, surveys, estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of constructing any such facilities; administrative expense, and such other expense as may be necessary or incident to the construction of the facilities; and the financing of such construction and the placing of the facilities in operation.

10. "Owner" means all individuals, copartnerships, associations, or corporations having any title or interest in any property, rights, easements, and interest authorized to be acquired by this article.

11. "Oklahoma Educational Television Network" means the educational television channels allocated to the state by the Federal Communications Commission and maintained and operated by the Oklahoma Educational Television Authority.

12. "Executive Director" means the Executive Director of the Oklahoma Educational Television Authority, authorized by the provisions of Section 3 of this act. **(70-23-104)**

Section 466. Membership of Authority.

There is hereby re-created, to continue until July 1, 2008, in accordance with the provisions of the Oklahoma Sunset Law, Section 3901 et seq. of Title 74 of the Oklahoma Statutes, a body corporate and politic to be known as the "Oklahoma Educational Television Authority", and by that name the Authority may sue and be sued, and plead and be impleaded. The Authority is hereby constituted an instrumentality of the state, and the exercise by the Authority of the powers conferred by this article for the planning, construction, operation, and maintenance of educational television facilities shall be deemed and held to be an essential function of the state.

The Oklahoma Educational Television Authority shall consist of thirteen (13) members, including the President of the University of Oklahoma, the President of Oklahoma State University, the State Superintendent of Public Instruction, the Chancellor of the Oklahoma State Regents for Higher Education, the president of one of the state-supported four-year colleges to be chosen by the presidents of this group of institutions, the president of one of the state-supported two-year colleges to be chosen by the presidents of this group of institutions, and seven additional members to be appointed by the Governor with the consent of the Senate, to serve seven-year terms.

The appointed members shall have been residents of the state for at least five (5) years preceding the date of their appointment. The appointed members shall include one member from each of the five Congressional Districts and members-at-large. A majority of the appointed members shall be actively engaged in the profession of education. Each appointed member of the Authority, before entering upon the duties of the member, shall take the oath provided for by Section 1 of Article XV of the Constitution of the State of Oklahoma.

The seven original members appointed by the Governor shall continue in office for terms expiring on June 30, 1954; June 30, 1955; June 30, 1956; June 30, 1957; June 30, 1958; June 30, 1959; and June 30, 1960, respectively. The terms of each of the original appointed members shall be designated by the Governor, and said members shall serve for their appointed terms and until their respective successors shall be appointed and qualified. The successor of each appointed member shall be appointed for a term of seven (7) years, except that any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term in said vacancy.

The Authority shall elect from the membership of the Authority a chairman, a vice-chairman, and a secretary-treasurer. Any such officers elected by the Authority on or after July 1, 1984, shall be appointed to serve a term of one (1) year. Seven members of the Authority shall constitute a quorum, and the vote of seven members shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority. The Authority shall meet at least quarterly.

The members of the Authority shall not be entitled to compensation for their services, but each member shall be reimbursed for travel expenses incurred in performing official duties in accordance with the provisions of the State Travel Reimbursement Act. No liability or obligation shall be incurred by the Authority beyond the extent to which monies shall have been provided pursuant to the authority of this article. **(70-23-105)**

Section 467. Powers of Authority.

The Authority is hereby authorized and empowered:

1. To accept, assume and control the television channels assigned by the Federal Communications Commission to the State of Oklahoma for educational purposes;

2. To adopt bylaws for the regulation of its affairs and the conduct of its business;

3. To adopt an official seal and alter the same at pleasure;

4. To maintain an office at such place or places within the state as it may designate;

5. To sue and be sued in its own name, plead and be impleaded; provided, however, that any and all actions, at law or in equity, against the Authority shall be brought in the county in which the principal office of the Authority shall be located, or in the county of the residence of the plaintiff, or in the county where the cause of action arose;

6. To construct, maintain, repair and operate television facilities which with their access connections are designated ultimately to extend to and include all sections and areas of the State of Oklahoma;

7. To issue revenue bonds of the Authority, payable solely from dedicated revenues, for the purpose of paying all or any part of the cost of needed facilities;

8. To fix and revise from time to time any necessary charges for the use of any facilities;

9. To pay for the annual cost of the operation, maintenance and repair of such facilities;

10. To pay as and when due the principal and interest on the revenue certificates or bonds issued to pay for such facilities;

11. To accumulate and maintain such reserves as are provided for in the resolution or trust indenture under which such bonds are issued or secured;

12. To acquire, hold, or dispose of real and personal property in the exercise of its powers and the performance of its duties under this act;

13. To acquire in the name of the Authority by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or by the exercise of the right of condemnation in manner hereinafter provided, such public or private lands, rights-of-way, property, rights, easements, and interests, as it may deem necessary for carrying out the provisions of this article; and it is the intent of the Legislature that all public property damaged in carrying out the powers granted by this article shall be restored or repaired and placed in its original condition as nearly as practicable;

14. To designate, except as is provided for herein, the locations; and to establish, limit and control such points of ingress to and egress from each facility as may be necessary or desirable in the judgment of the Authority to insure the proper operation and maintenance of such facility;

15. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this article, and to employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment, and to fix their compensation;

16. To receive appropriations from the State Legislature and accept from any federal agency grants for or in aid of the construction and operation of any project; provided, the acceptance of such grants or appropriations will not reduce the amount of federal aid for other education in this state; and to receive and accept aid or contributions from any source of either money, property, labor, or other things of value;

17. To do any and all things necessary to comply with rules, regulations, or requirements of the Federal Communications Commission or any other federal agency administering any law enacted by the Congress of the United States to aid or encourage education;

18. To do all things necessary or convenient to carry out the powers expressly granted in this article.

It shall be unlawful for any member, officer, or employee of the Authority to transact with the Authority, either directly or indirectly, any business for profit of such member, officer, or employee; and any person, firm or corporation knowingly participating therein shall be equally liable for violation of this provision.

The term "business for profit" shall include, but not be limited to, the acceptance or payment of any fee, commission, gift or consideration to such member, officer or employee.

Any person found guilty of violating any of the provisions of this section shall be guilty of a felony, and shall be punishable by a fine of not less than Five Hundred Dollars ($500.00), and not more than Five Thousand Dollars ($5,000.00), or by imprisonment in the State Penitentiary for not more than five (5) years, or by both such fine and imprisonment. **(70-23-106)**

Section 468. Powers Continued.

The Authority is hereby authorized and empowered to acquire by purchase, whenever it shall deem such purchase expedient, any land, property, rights, rights-of-way, franchises, easements, or other interests in lands as it may deem necessary or convenient for the construction, maintenance, and operation of the facilities upon such terms and at such price as may be considered by it to be reasonable and can be agreed upon between the Authority and the owner thereof, and to take title thereto in the name of the Authority. **(70-23-107)**

Section 469. Power to Condemn Property.

Whenever a reasonable price cannot be agreed upon, or whenever the owner is legally incapacitated, or is absent, unknown, or unable to convey valid title, the Authority is hereby authorized and empowered to acquire by condemnation proceedings in the same manner as land is condemned for railroad purposes any land, property, rights, rights-of-way, franchises, easements, or other property deemed necessary or convenient for the construction or the efficient operation of any facilities, or necessary in the restoration of public or private property damaged or destroyed. No act or obligation of the Authority shall impose any liability upon the state or the Authority except such as may be paid from the funds provided under the authority of the article. **(70-23-108)**

Section 470. Authority May Issue Revenue Bonds.

The Authority may provide by resolution, at one time or from time to time, for the issuance of revenue bonds of the Authority for the purpose of paying all or any of the cost of any one or more projects, but each project shall be covered by a separate resolution and separate bond issue or issues. Provided, each such resolution must receive legislative approval prior to actual issuance of said revenue bonds. The principal of and the interest on such bonds shall be payable solely from the funds herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at a rate not to exceed ten percent (10%), and shall mature in annual installments at such time or times not exceeding the maximum time permitted by the Constitution of the State of Oklahoma, but in any event not more than forty (40) years after their date as may be determined by the Authority. The Authority may cause the bonds or any installment thereof to be made redeemable before maturity, at the option of the Authority, at such price or prices, and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the state. The bonds shall be signed by the chairman of the Authority, and the official seal of the Authority shall be affixed thereto and attested by the secretary treasurer of the Authority, and any coupons attached thereto shall bear the facsimile signature of the chairman of the Authority. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds issued under the provisions of this article shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the state. The bonds may be issued in coupon or in registered form or both, as the Authority may determine, and provisions may be made for the registration of any coupon bonds as to principal and interest. The authority shall sell such bonds at public sale. Notice of the sale shall be published in a Thursday issue for two (2) successive weeks in a daily newspaper of general circulation in the State of Oklahoma. The date mentioned in the notice for the sale of bonds shall not be less than ten (10) days after the first publication thereof. All bonds shall be sold to the bidder who will bid therefor par and accrued interest, and who shall stipulate in his bid the lowest rate of interest which such bonds shall bear. It is the intent of this article that the bonds shall be awarded to the bidder bidding rate or rates of interest which will be the lowest interest cost during the life of the bonds. Any premium bid shall not be considered in figuring such interest cost but shall be considered only in case two or more bidders bid the same interest cost. Upon the acceptance of such bid, the bonds shall be issued in accordance therewith and shall be delivered to the purchaser upon payment of the purchase price. Each bidder shall submit with his bid such sum in cash or its equivalent as may be determined by the Authority, and upon the acceptance of any bid such deposit shall become the property of the Authority and shall be credited on the purchase price of the bonds, upon the understanding that if the purchaser shall fail five (5) days after the tender of bonds to pay the balance of the purchase price, said sale shall be thereby annulled and said deposit shall be in such event retained by the Authority and credited to the account for which such bonds are being issued and shall be used accordingly. All other deposits shall be returned. The Authority shall have the right to reject all bids and readvertise the bonds for sale. The bonds need not be issued and sold in series. In no event shall the bonds be sold at a price so low as to require the payment of interest on the money received therefor at more than ten percent (10%), computed with relation to the absolute maturity of the bonds in accordance with the standard tables of bond values, excluding, however, from such computation the amount of any premium to be paid on the redemption of any bonds prior to maturity.

The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the project, for which such bonds shall have been issued, and shall be disbursed in such manner, and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund for such bonds.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under provisions of this article without obtaining the consent of any department, division, commission, board, bureau or agency of the state except legislative approval as required

herein, and without any other proceedings or the happening of any other conditions or things than those proceedings, condition, or things which are specifically required by this article. **(70-23-109)**

Section 471. Sinking Fund.

The principal and interest necessary to retire any bonds issued by the Authority shall be paid out of the "Oklahoma Educational Television Bond Sinking Fund" hereinafter established by Section 23-111 of this article. **(70-23-110)**

Section 472. Creation of Sinking Fund.

There is hereby created the Oklahoma Educational Television Bond Sinking Fund in the State Treasury and the State Treasurer is hereby authorized and directed to transfer revenues accruing to the Public Building Fund, not otherwise appropriated as of the date this article becomes effective, to the Oklahoma Educational Television Bond Sinking Fund to be used solely for the purpose of retiring bonds issued by the Oklahoma Educational Television Authority. **(70-23-111)**

> Bonds payable from future accruals to Public Building Fund cannot be issued. *AG Op. No. 71-179, November 30, 1971*

Section 473. Trust Agreements.

In the discretion of the Authority any bonds issued under the provisions of this article may be secured by a trust agreement by and between the Authority and a corporate trustee which may be any trust company or bank having the powers of a trust company within or without the state. Such trust agreement may pledge or assign the revenues to be received from the project constructed by the use of the proceeds of the bonds, but shall not convey or mortgage any project or part thereof. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of the project in connection with which such bonds shall have been authorized, and the custody, safeguarding and application of all monies, and provisions for the employment of consultants or operation of such project or projects. It shall be lawful for any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds and debentures of corporations. In addition to the foregoing any such trust agreement may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement may be treated as part of the cost of the operation of the project or projects. **(70-23-112)**

Section 474. Authority May Collect Fees.

The Authority, subject to the provisions hereof, is hereby authorized to fix, revise, charge and collect fees for the use of any of its facilities. **(70-23-113)**

Section 475. Monies Received Are Trust Funds.

All monies received pursuant to the authority of this article, whether as proceeds from the sale of bonds or other revenues, shall be deemed to be trust funds, to be held and applied solely as provided in this article. The resolution authorizing the bonds of any issue or the trust agreement securing such bonds shall provide that any officer to whom, or any bank or trust company to which, such monies shall be paid shall act as trustee of such monies and shall hold and apply the same for the purposes hereof, subject to such regulations as this article and such resolution or trust agreement may provide. **(70-23-114)**

Section 476. Rights of Trustee.

Any holder of bonds issued under the provisions of this article or any of the coupons appertaining thereto, and the trustee under the trust agreement, except to the extent the rights herein given may be restricted by such trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding protect and enforce any and all rights under the laws of the state or granted hereunder or under such trust agreement or the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this article or by such trust agreement or resolution to be performed by the Authority or by any officer thereof including the fixing, charging and collecting of fees. **(70-23-115)**

Section 477. Authority Tax Exempt.

The exercise of the powers granted by this article will be in all respects for the benefit of the people of the state, to serve their educational and cultural interests and needs, and for the improvement of their health and living conditions. The operation and maintenance of projects by the Authority will constitute the performance of essential governmental functions, and the Authority shall not be required to pay any taxes or assessments upon any project or any property acquired or used by the Authority under the provisions of this article or upon the income therefrom, and the bonds issued under the provisions of this article, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the state. **(70-23-116)**

Section 478. Securities of Bonds.

Bonds issued under the provisions of this article are hereby made securities by which all banks, trust companies, trust and loan associations, investment companies and others carrying on a banking business, all insurance companies and insurance associations, and others carrying on an insurance business may legally and properly invest funds including capital in their control or belonging to them. **(70-23-117)**

Section 479. Projects to Become Part of the State Educational System.

Each project when constructed and placed in use shall be maintained and kept in good condition and repair by the Authority. When all bonds issued under the provisions of this article in connection with any project and the interest thereon shall have been paid or a sufficient amount for the payment of all such bonds and the interest thereon to the maturity thereof shall have been set aside in trust for the benefit of the bondholders, such project, if then in good condition and repair to the satisfaction of the State Legislature, shall become part of the State Educational System.

All counties, cities, towns, municipalities and school districts of the state and all state boards, commissions, officials, and other public agencies, notwithstanding any contrary provision of law, are hereby authorized and empowered:

1. To lease, lend, grant or convey to the Authority at its request upon such terms and conditions as the proper authorities of such counties, cities, towns, municipalities, school districts of the state, and all state boards, commissioners, officials and other public agencies may deem reasonable and fair and without the necessity for any advertisement, order of court or other action or formality other than the regular and formal action of the authorities concerned, any personal property, real property and other things of value which may be necessary or convenient to the effectuation of the authorized purposes of the Authority, including real property already devoted to public use; and

2. To lease, rent or contract from the Authority for telecasting purposes, any programs that would be beneficial to their interest and that of the State of Oklahoma. **(70-23-118)**

Section 480. Authority May Contract with Television Stations.

The Authority is hereby authorized and empowered to enter into contract with other television stations, networks or other agencies for the purpose of receiving or exchanging television programs. **(70-23-119)**

Section 481. Bond Application May Be filed with Oklahoma Supreme Court.

The Authority is authorized in its discretion to file an application with the Supreme Court of Oklahoma for the approval of any bonds to be issued thereunder, and exclusive original jurisdiction is hereby conferred upon the Supreme

Court to hear and determine each such application. It shall be the duty of the Court to consider and pass upon the applications and any protests which may be filed thereto as speedily as possible. Notice of the hearing on each application shall be given by a notice published in a newspaper of general circulation in the state that on a day named the Authority will ask the court to hear its application and approve the bonds. Such notice shall inform all persons interested that they may file protests against the issuance of the bonds and be present at the hearing and contest the legality thereof. Such notice shall be published one time not less than ten (10) days prior to the date named for the hearing and the hearing may be adjourned from time to time in the discretion of the Court. If the Court shall be satisfied that the bonds have been properly authorized in accordance with this article and that when issued, they will constitute valid obligations in accordance with their terms, the Court shall render its written opinion approving the bonds and shall fix the time within which a petition for rehearing may be filed. The decision of the Court shall be a judicial determination of the validity of the bonds, shall be conclusive as to the Authority, its officers and agents, and thereafter the bonds so approved and the revenues pledged to their payment shall be incontestible in any court in the State of Oklahoma. **(70-23-120)**

Section 482. Authority is Authorized to Issue Refunding Bonds.

The Authority is hereby authorized to provide by resolution for the issuance of revenue refunding bonds of the Authority for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this article, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. Each refunding issue shall be limited to the project in connection with which the bonds being refunded were issued, and revenues pledged to pay any such refunding issue shall be limited to the revenue derived from said separate project. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the Authority in respect of the same shall be governed by the provisions of this article insofar as the same may be applicable. **(70-23-121)**

Section 483. Authority Must Report to Legislature.

The Authority shall make and submit to the Legislature, on or before December 31 of each year, a full report showing projects under construction and in operation, planned projects, and the financial condition of the Authority, and such other information as the Legislature shall require. **(70-23-122)**

Section 484. This Article Provides Alternative Methods for Things Authorized Hereby.

The foregoing sections of this article shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby, and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any 398 powers now existing; provided, however, that the issuance of revenue bonds or revenue refunding bonds under the provisions of this article need not comply with the requirements of any other law applicable to the issuance of bonds. **(70-23-123)**

Section 485. Article To Be Liberally Construed.

This article being necessary for the advancement of education and the welfare of the state and its inhabitants shall be liberally construed to effect the purposes thereof; provided that until specifically authorized by the Legislature the provisions of this article shall not be utilized in any other manner. **(70-23-124)**

Section 486. Purchases - The Oklahoma Central Purchasing Act.

Purchases made by the Oklahoma Educational Television Authority from sources other than state-appropriated funds for the acquisition of television programs shall be excluded from the provisions of Title 74, Section 85.7 of "The Oklahoma Central Purchasing Act". The said Authority is hereby authorized to make such purchases against special authorization orders submitted to, approved and encumbered by, the Director of State Finance. Contracts for the purchase of television programs entered into by the Oklahoma Educational Television Authority and charged against a special authorization order as herein provided shall be maintained as a permanent record of the Authority for a period of not less than three (3) years after liquidation of the contract. **(70-23-126)**

Section 487. School Bullying Prevention Act.

Sections 1 through 4 of this act shall be known and may be cited as the "School Bullying Prevention Act". **(70-24-100.2)**

Section 487.1. School Bullying Prevention Act - Purpose and Definitions.

A. The Legislature finds that bullying has a negative effect on the social environment of schools, creates a climate of fear among students, inhibits their ability to learn, and leads to other antisocial behavior. Bullying behavior has been linked to other forms of antisocial behavior, such as vandalism, shoplifting, skipping and dropping out of school, fighting, and the use of drugs and alcohol. Research has shown that sixty percent (60%) of males who were bullies in grades six through nine were convicted of at least one crime as adults, and thirty-five percent (35%) to forty percent (40%) of these former bullies had three or more convictions by twenty-four (24) years of age. Successful programs to recognize, prevent, and effectively intervene in bullying behavior have been developed and replicated in schools across the country. These schools send the message that bullying behavior is not tolerated and, as a result, have improved safety and created a more inclusive learning environment.

B. The purpose of the School Bullying Prevention Act is to provide a comprehensive approach for the public schools of this state to create an environment free of unnecessary disruption which is conducive to the learning process by implementing policies for the prevention of harassment, intimidation, and bullying.

C. As used in the School Bullying Prevention Act:

1. "Harassment, intimidation, and bullying" means any gesture, written or verbal expression, electronic communication, or physical act that a reasonable person should know will harm another student, damage another student's property, place another student in reasonable fear of harm to the student's person or damage to the student's property, or insult or demean any student or group of students in such a way as to disrupt or interfere with the school's educational mission or the education of any student. "Harassment, intimidation, and bullying" include, but are not limited to, gestures or written, verbal, or physical acts, or electronic communications;

2. "At school" means on school grounds, in school vehicles, at designated school bus stops, at school-sponsored activities, or at school-sanctioned events;

3. "Electronic communication" means the communication of any written, verbal, or pictorial information by means of an electronic device, including, but not limited to, a telephone, a cellular telephone or other wireless telecommunication device, or a computer; and

4. "Threatening behavior" means any pattern of behavior or isolated action, whether or not it is directed at another person, that a reasonable person would believe indicates potential for future harm to students, school personnel, or school property.

D. Nothing in this act shall be construed to impose a specific liability on any school district. **(70-24-100.3)**

Section 487.2 Control and Discipline of Child.

A. Each district board of education shall adopt a policy for the control and discipline of all children attending public school in that district, and for the investigation of reported incidents of harassment, intimidation, bullying, or threatening behavior. Such policy shall provide options for the methods of control and discipline of the students and shall define standards of conduct to which students are expected to conform. The policy shall:

1. Specifically prohibit threatening behavior, harassment, intimidation, and bullying by students at school and by electronic communication, whether or not such communication originated at school or with school equipment, if the communication is specifically directed at students or school personnel and concerns harassment, intimidation, or bullying at school;

2. Address prevention of and education about such behavior;

3. Establish a procedure for the investigation of all incidents of harassment, intimidation, bullying, or threatening behavior reported to school officials for the purpose of determining the severity of the incidents and their potential to result in future violence;

4. Establish a procedure whereby, upon completing an investigation pursuant to paragraph 3 of this subsection, a school may recommend that available community mental health care options be provided to the student, if appropriate; and

5. Establish a procedure whereby a school may request the disclosure of any information concerning students who have received mental health care pursuant to paragraph 4 of this subsection that indicates an explicit threat to the safety of students or school personnel, provided the disclosure of the information does not violate the requirements and provisions of the Family Educational Rights and Privacy Act of 1974, the Health Insurance Portability and Accountability Act of 1996, Section 2503 of Title 12 of the Oklahoma Statutes, Section 1376 of Title 59 of the Oklahoma Statutes, or any other state or federal laws regarding the disclosure of confidential information.

In developing the policy, the district board of education shall make an effort to involve the teachers, parents, and students affected. The students, teachers, and parents or guardian of every child residing within a school district shall be notified by the district board of education of its adoption of the policy and shall receive a copy upon request. Provided, the teacher of a child attending a public school shall have the same right as a parent or guardian to control and discipline such child according to district policies during the time the child is in attendance or in transit to or from the school or any other school function authorized by the school district or classroom presided over by the teacher.

B. Except concerning students on individualized education plans (IEP) pursuant to the Individuals with Disabilities Education Act (IDEA), P.L. No. 101-476, the State Board of Education shall not have authority to prescribe student disciplinary policies for school districts or to proscribe corporal punishment in the public schools. The State Board of Education shall not have authority to require school districts to file student disciplinary action reports more often than once each year and shall not use disciplinary action reports in determining a school district's or school site's eligibility for program assistance including competitive grants.

C. The board of education of each school district in this state shall have the option of adopting a dress code for students enrolled in the school district. The board of education of a school district shall also have the option of adopting a dress code which includes school uniforms.

D. The State Board of Education shall promulgate rules for monitoring school districts for compliance with this section and providing sanctions for noncompliance with this section. **(70-24-100.4)**

Court considered statutes authorizing teachers to use reasonable force in disciplining children when it directed reinstatement of a teacher who was dismissed for slapping a child. *Hagen v. Ind. School Dist. No. I-04,* 2007 OK 19

Determining reasonableness of punishment includes student's age, sex, physical and mental condition, nature and motive of offense, whether force was degrading, and likelihood of permanent harm upon student. *Holman v. Wheeler,* 677 P.2d 645 (Okla. 1983)

Area of student conduct is within rule-making power of local school boards. *ISD No. 8 v. Swanson*, 553 P.2d 496 (Okla. 1976)

Scope of school board's rule-making authority pertaining to students' physical appearance is limited to rules which have reasonable connection with educational function entrusted to the board. *ISD No. 8 v. Swanson*, 553 P.2d 496 (Okla. 1976)

Any rule which would exclude a student from school must have a reasonable and necessary purpose. *ISD No. 8 v. Swanson*, 553 P.2d 496 (Okla. 1976)

School board did not have statutory authority to adopt student hair code which required boys to wear their hair "above [the] eyebrows, collars, and ears" and required that their hair be well-groomed and that their sideburns be no longer than the bottom of their earlobes; such a code lacked a clear showing of reasonable connection to a proper educational function. *ISD No. 8 v. Swanson*, 553 P.2d 496 (Okla. 1976)

School boards are empowered to adopt and enforce rules which are necessary to create and preserve an appropriate environment for learning, in addition to rules to insure safety of students and school property. *ISD No. 8 v. Swanson*, 553 P.2d 496 (Okla. 1976)

Section 487.3. Emergency Preparedness Grants.

Contingent upon the availability of designated funding from the United States Department of Homeland Security or state appropriations, the Oklahoma Office of Homeland Security shall make grant monies available to:

1. Public schools, private schools, technology center schools, and institutions of higher learning in the State of Oklahoma to encourage greater emergency preparedness, including, but not limited to, improvement of plans and procedures for natural and man-made disaster and emergencies, improvement of security on campus, at events, and with regard to buses and other transportation, and improvement of communications strategies and equipment; and

2. Local law enforcement, emergency management, disaster relief, and public health entities in the State of Oklahoma to encourage the active engagement of such entities with public schools, private schools, technology center schools, and institutions of higher learning in their efforts to improve emergency preparedness. **(74-51.2a)**

Section 487.4. Oklahoma School Security Revolving Fund.

A. This section shall be known and may be cited as the "Oklahoma School Security Grant Program Act".

B. The Oklahoma Office of Homeland Security shall solicit proposals for and make grants for the enhancement of campus security at institutions of higher learning, technology center schools, public schools, and private schools.

C. The goals and objectives of the Oklahoma School Security Grant Program are to:

1. Increase the awareness of the public and educational institutions of the risks, threats, and vulnerabilities of school campuses as well as mitigation strategies;

2. Incentivize participation in school security training programs designed to assess campus risks, threats, and vulnerabilities;

3. Provide assistance to institutions of higher learning, technology center schools, public schools, and private schools initiating or implementing school security plans, programs, and activities; and

4. Build upon the success of the pilot Education Grant Program established by the Oklahoma Office of Homeland Security.

D. The Oklahoma Office of Homeland Security shall determine grant project criteria and establish a process for the consideration of proposals. The proposals shall be considered on a statewide competitive basis among peer institutions.

E. On or before January 1, 2010, and each year thereafter, the Oklahoma Office of Homeland Security shall prepare an annual report on the Oklahoma School Security Grant Program and submit to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives. **(74-51.2b)**

Section 487.5. Oklahoma School Security Grant Program Act.

A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Office of Homeland Security to be designated the "Oklahoma School Security Revolving Fund". The Oklahoma School Security Revolving Fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies received by the Oklahoma Office of Homeland Security from:

1. Reimbursements, grants, or other monies received from other state agencies and entities of state government for school security;

2. Reimbursements, grants, or other monies received by the Oklahoma Office of Homeland Security from the United States government obligated to school security projects;

3. Gifts, donations, and bequests; and

4. Monies appropriated or apportioned by the state.

B. All monies accruing to the credit of the Oklahoma School Security Revolving Fund are hereby appropriated and may be budgeted and expended by the Oklahoma Office of Homeland Security for the administration of the

Oklahoma School Security Grant Program. Contingent upon the availability of funding, the Oklahoma Office of Homeland Security may make grants each year to institutions of higher learning, technology center schools, public schools, and private schools as provided in Section 2 of this act.

C. Expenditures from the Oklahoma School Security Revolving Fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment. **(74-51.2c)**

Section 487a. Safe School Committee.

A. Due to the growing concern regarding safety and the ever constant threat of violence in the public schools, it is the intent of the Legislature that public schools and families work together to combat this rising problem. Therefore, beginning October 1, 1996, and every year thereafter, each public school site shall establish a Safe School Committee to be composed of at least seven (7) members. The Safe School Committee shall be composed of an equal number of teachers, parents of the children affected, students, and a school official who participates in the investigation of reports of harassment, intimidation, bullying, and threatening behavior as required by subsection A of Section 24-100.4 of this title.

B. The Safe School Committee shall study and make recommendations to the principal regarding:

1. Unsafe conditions, possible strategies for students to avoid harm at school, student victimization, crime prevention, school violence, and other issues which prohibit the maintenance of a safe school;

2. Student harassment, intimidation, and bullying at school;

3. Professional development needs of faculty and staff to implement methods to decrease student harassment, intimidation, and bullying; and

4. Methods to encourage the involvement of the community and students, the development of individual relationships between students and school staff, and use of problem-solving teams that include counselors and/or school psychologists.

In its considerations, the Safe School Committee shall review traditional and accepted harassment, intimidation, and bullying prevention programs utilized by other states, state agencies, or school districts.

C. The State Department of Education shall compile and distribute to each public school site a list of research-based programs appropriate for the prevention of harassment, intimidation, and bullying of students at school. If a school district implements a commercial bullying prevention program, it shall use a program listed by the State Department of Education.

D. The provisions of this section shall not apply to technology center schools. **(70-24-100.5)**

Section 487b. School Violence.

A. It is the intent of the Legislature to encourage and assist the public schools of this state to address school violence through an emphasis on prevention. Preventative services shall be encouraged through greater access to mental health counseling and social services for students. In order to make licensed professional counselors and licensed social workers more available and accessible on site, school districts may:

1. Contract with and allocate space for nonprofit agencies or other community-based service providers for the appropriate personnel and services;

2. Seek any available funding, including the use of Medicaid funds for students who are Medicaid eligible through targeted case management, and any other funding which may be available for related services; and

3. Encourage the State Board of Education to allow for the use of licensed professional counselors and licensed social workers in addition to academic counselors. **(70-24-100.1)**

Section 487c. Placement of Student Victims.

A. Students who have been victims of certain felony offenses by other students, as well as the siblings of the student victims, have the right to be kept separated from the student offender both at school and during school transportation.

B. Notwithstanding any provision of law prohibiting the disclosure of the identity of a minor, within thirty (30) days of the time of the adjudication or withholding of adjudication of any juvenile offender for any offense subject to the Juvenile Sex Offender Registration Act, either the juvenile bureau in counties which have juvenile bureaus or the Office of Juvenile Affairs in all other counties shall notify the superintendent of the school district in which the juvenile offender is enrolled or intends to enroll of the adjudication and the offense for which the child was adjudicated. Upon receipt of such notice, the school district shall notify the victim and parent or guardian of the victim of their right to request to be separated from the offender at school and during school transportation. If the victim requests to be separated from the offender, the school district shall take appropriate action to effectuate the provisions of subsection C of this section. The decision of the victim shall be final and not reversible.

C. Any offender described in subsection B of this section shall, upon the request of the victim, not attend any school attended by the victim or a sibling of the victim or ride on a school bus on which the victim or a sibling of the victim is riding. The offender shall be permitted by the school district to attend another school within the district in which the offender resides, provided the other school is not attended by the victim or sibling of the victim. If the offender is unable to attend another school in the district in which the offender resides, the offender shall transfer to another school district pursuant to the provisions of the Education Open Transfer Act.

D. The offender or the parents of the offender, if the offender is a juvenile, shall be responsible for arranging and paying for transportation and any other cost associated with or required for the offender to attend another school or that is required as a consequence of the prohibition against attending a school or riding on a school bus on which the victim or a sibling of the victim is attending or riding. However, the offender or the parents of the offender shall not be charged for existing modes of transportation that can be used by the offender at no additional cost to the school district. **(70-24-100.6)**

> A student offender who has been "adjudicated" or had "adjudication withheld" under the OK Juvenile Code for a crime under the Juvenile Sex Offender Registration Act, who has been transferred to a different school at the request of the student victim, is not prohibited from participating in extracurricular activities in which both schools are involved, or from attending an extracurricular event where the student victim is also in attendance. *(AG Op. No. 08-14)*

Section 488. Wireless Telecommunication Devices Prohibited.

The board of education of each school district shall establish and implement rules regarding student possession of a wireless telecommunication device while said student is on school premises, or while in transit under the authority of the school, or while attending any function sponsored or authorized by the school. The rules shall provide that a student may possess a wireless telecommunication device upon the prior consent of both a parent or guardian and school principal or superintendent and shall also specify the disciplinary action a student shall face if found to be in possession of a wireless telecommunication device in violation of the rules. **(70-24-101.1)**

Section 488.1. Healthy and Fit Kids Act.

A. This act shall be known and may be cited as the "Healthy and Fit Kids Act of 2004".

B. Beginning September 1, 2004, each public school shall establish a Healthy and Fit School Advisory Committee, to be composed of at least six members. The Advisory Committee may be composed of teachers, administrators, parents of students, health care professionals and business community representatives.

A public school may combine the Healthy and Fit School Advisory Committee with its Safe School Committee, established pursuant to Section 24-100.5 of this title.

C. Each Healthy and Fit School Advisory Committee shall study and make recommendations to the school principal regarding:

1. Health education;

2. Physical education and physical activity; and

3. Nutrition and health services.

D. The principal shall give consideration to recommendations of the committee.

E. The State Board of Education shall adopt rules for monitoring compliance with this section and is authorized to report a school as deficient on the accreditation report for noncompliance with the provisions of this section. **(70-24-100a)**

Section 488.1a. Healthy and Fit School Advisory Committees.

A. In order to assist the Healthy and Fit School Advisory Committees created pursuant to Section 24-100a of Title 70 of the Oklahoma Statutes, the State Department of Education in consultation with the State Department of Health shall make available to schools information and technical assistance for use in:

1. Establishing healthy school nutrition environments;

2. Reducing childhood obesity;

3. Development of quality physical education and activity programs;

4. Prevention of diet-related chronic diseases; and

5. Establishing, implementing, and evaluating school wellness policies.

B. The Healthy and Fit School Advisory Committees are encouraged to utilize the School Health Index available on the Centers for Disease Control and Prevention website or the Oklahoma Healthy and Fit Schools Scorecard available on the Governor's Council on Physical Fitness and Sports website as a program assessment and monitoring instrument.

C. The Healthy and Fit School Advisory Committees shall be involved in the monitoring, implementation, and evaluation of Section 5-147 of Title 70 of the Oklahoma Statutes, which limits access to foods of minimal nutritional value. **(70-24-100b)**

Section 488.1b. Physical Fitness Assessment Software Program.

A. The State Department of Education and the State Department of Health shall facilitate the development of a physical fitness assessment software program customized for public schools in this state that has the capability to track the five components of student health-related physical fitness, including:

1. Aerobic capacity;

2. Muscular strength;

3. Muscular endurance;

4. Flexibility; and

5. A weight status assessment that includes measurement of height and weight, calculation of body mass index (BMI) for age, and plotting of these measures on standard growth charts.

The software program shall have the capability of creating a confidential individual student report for parents that includes an explanation of the data. In addition, the software program shall be developed and made accessible to school districts at no cost.

B. The State Department of Health in consultation with the State Department of Education and the Governor's Council on Physical Fitness and Sports shall select at least fifteen elementary schools statewide to pilot the software program during the 2008-2009 school year. Pilot schools shall assess all participating students in grades three, four and five. No school selected to participate in the pilot program shall be required to utilize the software program. No student shall be required to participate in the assessment if a parent or guardian of the student objects in writing. The purpose of the pilot shall be to:

1. Evaluate methods for administering the physical fitness assessment to students;

2. Evaluate methods for reporting to parents;

3. Evaluate the software program to ensure that it provides for the collection of data by school district in an efficient and cost-effective manner; and

4. Evaluate the usefulness of the health-related fitness testing manual. **(70-24-100c)**

Section 488.1c. School Health Coordinators Pilot Program.

A. Contingent on the availability of funding, the State Department of Education shall contract with a statewide nonprofit school health program that promotes the health needs of students to establish a School Health Coordinators Pilot Program. The purpose of the Pilot Program shall be to assist elementary schools and the Healthy and Fit School Advisory Committees in elementary schools in implementing health and wellness programs and providing health and wellness information to students in the elementary schools. The State Department of Education shall oversee the Pilot Program. The Pilot Program contractor shall coordinate the Pilot Program and provide the required support to schools to allow for participation in the Pilot Program.

B. The Department shall conduct the Pilot Program for a period of not less than five (5) years. The Pilot Program contractor shall employ and provide for the salary and benefits of school health coordinators, along with training and school support needed to implement the Pilot Program. The number of school health coordinators employed in years one and two of the Pilot Program shall be contingent upon funding and other factors as determined by the Department in conjunction with the Pilot Program contractor. By year three of the Pilot Program, not less than six school health coordinators shall be employed by the Pilot Program contractor with one school health coordinator assigned to each quadrant of the state, one assigned to the Tulsa metropolitan area, and one assigned to the Oklahoma City metropolitan area. A Pilot Program coordinator, Pilot Program contractor monitor, and additional school health coordinators may be employed if funds are available. A person employed as a school health coordinator shall at a minimum have a baccalaureate degree in health, community health, education, physical education, or nursing.

C. The school health coordinators shall be responsible for:

1. Facilitating the activities of and providing assistance and expertise to the Healthy and Fit School Advisory Committees in elementary schools;

2. Providing professional development opportunities for teachers;

3. Providing curriculum, materials, and resources to elementary schools for school health programs, which may include health education, physical education, health services, nutrition services, school climate, physical environment, health promotion and wellness, and youth, family, and community involvement;

4. Assisting elementary schools in completing the School Health Index;

5. Interacting with parent organizations in public schools in order to educate parents about health and wellness issues; and

6. Conducting a public health media campaign for students and their families.

D. The Department and the Pilot Program contractor shall form a steering committee with representatives from the State Department of Health and other entities interested in school health to help provide expertise, oversight and guidance for the Pilot Program.

E. The Pilot Program contractor in partnership with an evaluation entity shall conduct an annual evaluation of the effectiveness and impact of the Pilot Program. A copy of the evaluation shall be submitted to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate.

F. The State Board of Education shall promulgate rules necessary to implement the provisions of this section. **(70-24-100d)**

Section 488.2. Student Suspension.

A. Any student who is guilty of an act described in paragraph 1 of subsection C of this section may be suspended out-of-school in accordance with the provisions of this section. Each school district board of education shall adopt a policy with procedures which provides for out-of-school suspension of students. The policy shall address the term of the out-of-school suspension, provide an appeals process as described in subsection B of this section, and provide that before a student is suspended out-of-school, the school or district administration shall consider and apply, if appropriate, alternative in-school placement options that are not to be considered suspension, such as placement in an alternative school setting, reassignment to another classroom, or in-school detention. The policy shall address education for students subject to the provisions of subsection D of this section and whether participation in extracurricular activities shall be permitted.

B. 1. Students suspended out-of-school for ten (10) or fewer days shall have the right to appeal the decision of the administration as provided in the policy required in subsection A of this section. The policy shall specify whether appeals for short-term suspensions as provided in this subsection shall be to a local committee composed of district administrators or teachers or both, or to the district board of education. Upon full investigation of the matter, the committee or board shall determine the guilt or innocence of the student and the reasonableness of the term of the out-of-school suspension. If the policy requires appeals for short-term suspensions to a committee, the policy adopted by the board may, but is not required to, provide for appeal of the committee's decision to the board.

2. Students suspended out-of-school for more than ten (10) days and students suspended pursuant to the provisions of paragraph 2 of subsection C of this section may request a review of the suspension with the administration of the district. If the administration does not withdraw the suspension, the student shall have the right to appeal the decision of the administration to the district board of education. Except as otherwise provided for in paragraph 2 of subsection C of this section, no out-of-school suspension shall extend beyond the current semester and the succeeding semester. Upon full investigation of the matter, the board shall determine the guilt or innocence of the student and the reasonableness of the term of the out-of-school suspension. A board of education may conduct the hearing and render the final decision or may appoint a hearing officer to conduct the hearing and render the final decision. The decision of the district board of education or the hearing officer, if applicable, shall be final.

C. 1. Students who are guilty of any of the following acts may be suspended out-of-school by the administration of the school or district:

a. violation of a school regulation,

b. immorality,

c. adjudication as a delinquent for an offense that is not a violent offense. For the purposes of this section, “violent offense” shall include those offenses listed as the exceptions to the term “nonviolent offense” as specified in Section 571 of Title 57 of the Oklahoma Statutes. “Violent offense” shall include the offense of assault with a dangerous weapon but shall not include the offense of assault,

d. possession of an intoxicating beverage, low-point beer, as defined by Section 163.2 of Title 37 of the Oklahoma Statutes, or missing or stolen property if the property is reasonably suspected to have been taken from a student, a school employee, or the school during school activities, and

e. possession of a dangerous weapon or a controlled dangerous substance, as defined in the Uniform Controlled Dangerous Substances Act. Possession of a firearm shall result in out-of-school suspension as provided in paragraph 2 of this subsection.

2. Any student found in possession of a firearm while on any public school property or while in any school bus or other vehicle used by a public school for transportation of students or teachers shall be suspended out-of-school for a period of not less than one (1) year, to be determined by the district board of education pursuant to the provisions of this section. The term of the suspension may be modified by the district superintendent on a case-by-case basis. For purposes of this paragraph the term "firearm" shall mean and include all weapons as defined by 18 U.S.C., Section 921.

3. Any student in grades six through twelve found to have assaulted, attempted to cause physical bodily injury, or acted in a manner that could reasonably cause bodily injury to a school employee or a person volunteering for a school as prohibited pursuant to Section 81* of this act shall be suspended for the remainder of the current semester and the next consecutive semester, to be determined by the board of education pursuant to the provisions of this section. The term of the suspension may be modified by the district superintendent on a case-by-case basis.

D. At its discretion a school district may provide an education plan for students suspended out-of-school for five (5) or fewer days pursuant to the provisions of this subsection. The following provisions shall apply to students who are suspended out-of-school for more than five (5) days and who are guilty of acts listed in subparagraphs a, b, c and d of paragraph 1 of subsection C of this section. Upon the out-of-school suspension, the parent or guardian of a student suspended out-of-school pursuant to the provisions of this subsection shall be responsible for the provision of a supervised, structured environment in which the parent or guardian shall place the student and bear responsibility for monitoring the student's educational progress until the student is readmitted into school. The school administration shall provide the student with an education plan designed for the eventual reintegration of the student into school which provides only for the core units in which the student is enrolled. A copy of the education plan shall also be provided to the student's parent or guardian. For the purposes of this section, the core units shall consist of the minimum English, mathematics, science, social studies and art units required by the State Board of Education for grade completion in grades kindergarten through eight and for high school graduation in grades nine through twelve. The plan shall set out the procedure for education and shall address academic credit for work satisfactorily completed.

E. A student who has been suspended out-of-school from a public or private school in the State of Oklahoma or another state for a violent act or an act showing deliberate or reckless disregard for the health or safety of faculty or other students shall not be entitled to enroll in a public school of this state, and no public school shall be required to enroll the student, until the terms of the suspension have been met or the time of suspension has expired.

F. No public school of this state shall be required to provide education services in the regular school setting to any student who has been adjudicated as a delinquent for an offense defined in Section 571 of Title 57 of the Oklahoma Statutes as an exception to a nonviolent offense or convicted as an adult of an offense defined in Section 571 of Title 57 of the Oklahoma Statutes as an exception to a nonviolent offense, who has been removed from a public or private school in the State of Oklahoma or another state by administrative or judicial process for a violent act or an act showing deliberate or reckless disregard for the health or safety of faculty or other students, or who has been suspended as provided for in paragraph 3 of subsection C of this section until the school in which the student is subsequently enrolled determines that the student no longer poses a threat to self, other students or school district faculty or employees. Until the school in which such student subsequently enrolls or re-enrolls determines that the student no longer poses a threat to self, other students or school district faculty or employees, the school may provide education services through an alternative school setting, home-based instruction, or other appropriate setting. If the school provides education services to such student at a district school facility, the school shall notify any student or school district faculty or employee victims of such student, when known, and shall ensure that the student will not be allowed in the general vicinity of or contact with a victim of the student, provided such victim notifies the school of the victim's desire to refrain from contact with the offending student.

G. Students suspended out-of-school who are on an individualized education plan pursuant to the Individuals with Disabilities Education Act, P.L. No. 101-476, or who are subject to the provisions of subsection F of this section and who are on an individualized education plan shall be provided the education and related services in accordance with the student's individualized education plan.

H. A student who has been suspended for a violent offense which is directed towards a classroom teacher shall not be allowed to return to that teacher's classroom without the approval of that teacher.

I. No school board, administrator or teacher may be held civilly liable for any action taken in good faith which is authorized by this section. **(70-24-101.3)**

A school district must adopt policies that provide for the suspension of students in possession of firearms on school property and that prohibits the transportation and storage of firearms in locked vehicles by students or others on school property set aside for the use of any vehicle. However, a school district may not adopt a policy or rule that prohibits a person from possessing a firearm or knife for hunting or fishing if properly displayed and stored as required by law, or a handgun pursuant to the Oklahoma Self-Defense Act, in a private vehicle on school property, if the vehicle containing the weapon is only driven onto school property to transport a student to and from school and does not remain unattended on school property, nor that prohibits a person from possessing a gun or knife on school property for the purposes of participating in a school-approved training course, firearms event or competition, or a living history reenactment, provided that the weapon is properly displayed or stored as required by law. *December 7, 2004 (AG Op. No. 04-39)*

Section 24-101.3(F), applies to both students and faculty, but not to the siblings of the student victim. A school district that provides "education services" at a district school facility must ensure that an offender adjudicated as a juvenile or convicted as an adult of one of the enumerated list of crimes under the Juvenile Sex Offender Registration Act, "not be allowed in the general vicinity of or contact with a victim" of the offender if requested by the victim. The phrase "educational services" includes extracurricular activities occurring within the school district. *(AG Op. No. 08-14)*

Section 488.3. Disciplinary and Educational Records.

A. A school district in which a student is enrolled or is in the process of enrolling in may request the student's education records from any school district in which the student was formerly enrolled to ascertain safety issues with incoming students and ensure full disclosure. A district that receives a request for the education records of a student who formerly was enrolled in the district shall forward the records within three (3) business days of receipt of the request. The records shall include the student's disciplinary records. Disciplinary records shall include but not be limited to all information that relates to a student assaulting, carrying weapons, possessing illegal drugs, including alcohol, and any incident that poses a potential dangerous threat to students or school personnel. The forwarding and disclosure of disciplinary records or other education records to a school district in which a student seeks or intends to enroll shall be in accordance with the annual notification requirements and provisions of the Family Educational Rights and Privacy Act of 1974 (FERPA).

B. Each school district shall be required to release nondirectory educational records to the agencies listed in Section 620.3 of Title 10 of the Oklahoma Statutes. The release of any records shall be in accordance with the provisions of FERPA. The term "nondirectory educational records" shall be those records maintained by the school regarding a child who is or has been a student at the school which are categorized as private or confidential records pursuant to FERPA.

C. The State Board of Education shall promulgate rules for monitoring school districts for compliance with this section and providing sanctions for noncompliance with this section. The Board shall inform school districts of their statutory responsibilities for compliance with FERPA. Enforcement and sanctions shall be as provided by the federal requirements under FERPA. **(70-24-101.4)**

Section 489. Pupils - Searches.

The superintendent or, principal, teacher, or security personnel of any public school in the State of Oklahoma, upon reasonable suspicion, shall have the authority to detain and search or authorize the search, of any pupil or property in the possession of the pupil when said pupil is on any school premises or while in transit under the authority of the school, or while attending any function sponsored or authorized by the school, for dangerous weapons or, controlled substances, as defined in the Uniform Controlled Dangerous Substances Act, intoxicating beverages, low-point beer, as defined by Section 163.2 of Title 37 of the Oklahoma Statutes, or for missing or stolen property if said property be reasonably suspected to have been taken from a pupil, a school employee or the school during school activities. The search shall be conducted by a person of the same sex as the person being searched and shall be witnessed by at least one other authorized person, said person to be of the same sex if practicable.

The extent of any search conducted pursuant to this section shall be reasonably related to the objective of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction. In no event shall a strip search of a student be allowed. No student's clothing, except cold weather outerwear, shall be removed prior to or during the conduct of any warrantless search.

The superintendent or, principal, teacher, or security personnel searching or authorizing the search shall have authority to detain the pupil to be searched and to preserve any dangerous weapons or, controlled dangerous substances, intoxicating beverages, low-point beer, or missing or stolen property that might be in their possession including the authority to authorize any other persons they deem necessary to restrain such pupil or to preserve any dangerous weapons or, controlled dangerous substances, intoxicating beverages, low-point beer, or missing or stolen property. Students found to be in possession of such an item shall be subject to the provisions of Section 24-101.3 of this title.

Pupils shall not have any reasonable expectation of privacy towards school administrators or teachers in the contents of a school locker, desk, or other school property. School personnel shall have access to school lockers, desks, and other school property in order to properly supervise the welfare of pupils. School lockers, desks, and other areas of school facilities may be opened and examined by school officials at any time and no reason shall be necessary for such search. Schools shall inform pupils in the student discipline code that they have no reasonable expectation of privacy rights towards school officials in school lockers, desks, or other school property. **(70-24-102)**

Section 490. Bribes in Connection with School Bonds and School Supplies.

It is hereby declared to be unlawful for any officer or employee of the State Board of Education, member of a board of education or employee thereof, to solicit, take, retain, or receive any money, property or thing of value in the nature of commissions or otherwise for the purchase or sale of school bonds, or for the purchase of any furniture or supplies, and the soliciting, taking, retaining or receiving of any such money or other thing of value is hereby declared to be a misdemeanor. **(70-24-103)**

Section 491. Payment or Tender of Money or Property - Unlawful When.

It is hereby declared to be unlawful and a misdemeanor for any person, corporation or individual to offer, tender to pay or deliver to any such officer or employee of the State Board of Education, member of a board of education or employee thereof, any such property, money or other thing of value in any way connected with the issuing of school bonds or the purchase of furniture or supplies, whether the same be denominated commission or otherwise. **(70-24-104)**

Section 492. Referral Fee from Mental Health Care Prohibited.

It shall be unlawful for any school counselor, teacher, any other school employee, school board member, or Department of Human Services employee to solicit, take, retain, or receive any money, property, or thing of value in the nature of a fee or otherwise from a mental health care provider or facility or any employee thereof for directing or referring students to the provider or facility for treatment. Any person convicted of violating the provisions of this section shall be guilty of a misdemeanor. **(70-24-104.1)**

Section 493. Referral Fee by Mental Health Care Prohibited.

It shall be unlawful for any mental health care provider or facility or any employee thereof to offer, tender to pay or deliver to any school counselor, teacher, any other school employee, school board member, or Department of Human Services employee any money, property, or thing of value in the nature of a fee or otherwise for directing or referring a student to that provider or facility for treatment. Any person convicted of violating the provisions of this section shall be guilty of a misdemeanor. **(70-24-104.2)**

Section 494. Fraternities, Sororities and Secret Societies.

A. The board of education of each school district shall have full power and authority to regulate, control or prohibit any fraternity, sorority, secret society, club or group composed in whole or in part of students enrolled in the school district if it deems it advisable and in the best interest of the school program to do so.

B. Each board of education shall adopt policies and procedures to annually notify parents or guardians of students about clubs and organizations sponsored by or under the direction and control of the school. The annual notification about clubs and organizations shall be by means of the student handbook and by posting on the Internet website for the school district or if the school district does not have an Internet website by another appropriate method. The annual notification shall include, but is not limited to, the following information about each club or organization:

1. Name;

2. Mission or purpose; and

3. Name of the faculty advisor, if known.

C. If clubs or organizations are created or formed after the annual notification is distributed, the school district shall send additional notification to the parents or guardians containing information about the additional clubs or organizations consistent with the requirements set forth in subsection B of this section.

D. The policy adopted by each board of education shall provide parents or guardians of students with an opportunity to notify school administration that the parent or guardian is withholding permission for a student to join or participate in one or more clubs or organizations. The policy shall only apply to participation in clubs and organizations that are extracurricular and shall not apply to participation in clubs and organizations that are necessary for a required class of instruction. Parents or guardians shall be responsible for preventing their student from participating in a club or organization in which permission is withheld. Parents or guardians shall also be responsible for retrieving their student from attendance at a club or organization in which permission is withheld. Nothing in this subsection shall prevent a club or organization from meeting when a student who is not authorized to be in the club or organization is present at such meeting.

E. For purposes of this section:

1. "Clubs and organizations" means a club or organization comprised of students that is organized and meets for common goals, objectives, or purposes, and that is directly under the sponsorship, direction, and control of the school; and

2. "Competitive interscholastic activity or event" means activities held under the auspices or sponsorship of a school district that involves students enrolled in that school district competing against individuals or groups of students representing other school districts. **(70-24-105)**

Section 495. United States Flag - Display.

A. The board of education of every school district in this state shall be required to own and display, either inside or outside each classroom building in the district, a United States flag.

B. Instruction in the history and etiquette relating to the United States Flag shall be given in one or more grades in the schools in every school district in this state.

C. Students are authorized to recite, at the beginning of each school day, the pledge of allegiance to the flag of the United States of America as enumerated at 36 U.S.C., Section 172. Each student shall be informed by posting a notice in a conspicuous place that students not wishing to participate in the pledge shall not be required to do so. **(70-24-106)**

Section 495.1. Display of United States Mottos.

A. Principals and teachers in each public school in this state may display in each classroom, school auditorium, and school cafeteria under their supervision the following motto of the United States of America: "E PLURIBUS UNUM (Out of Many One)" and "IN GOD WE TRUST". For purposes of this subsection, "classroom" means any room of a public school where instruction takes place.

B. Each school district in the state shall permit a principal or teacher to utilize in a public school building, classroom, or at any public school event any grade-level-appropriate excerpts or portions of the documents, writings, speeches, proclamations, or records relating to the history, heritage, or foundation of the United States or the State of Oklahoma including, but not limited to, the:

1. Mayflower Compact;

2. Declaration of Independence;

3. Constitutions of the United States and the State of Oklahoma;

4. Federalist Papers;

5. Pledge of Allegiance;

6. National anthem;

7. Presidential records and speeches;

8. Acts and published records of Congress; and

9. United States Supreme Court decisions and records.

C. School districts shall not limit or restrain instruction in American or Oklahoma state history or heritage based on religious references in documents, writings, speeches, proclamations, or the materials described in subsection B of this section. These and any other materials shall be used for educational purposes only and not to establish or promote any religion. **(70-24-106.1)**

Section 496. Arbor Day.

The Friday following the second Monday in February of each year shall be known throughout Oklahoma as Arbor Day. **(70-24-107)**

Note: Title 2, section 16-68, Okla. Stat. provides that the last full week in March of each year shall be known as Arbor Week.

Section 497. Repealed.

Section 498. Oklahoma Statehood Day - November 16.

The date of November 16 of each year is hereby designated "Oklahoma Statehood Day" in and for the public schools of this state. Any year in which the date of November 16 is a Saturday or Sunday the public schools of this state shall observe the next succeeding school day as "Oklahoma Statehood Day," as provided herein. **(70-24-109)**

Section 499. Oklahoma Statehood Day - Program For.

The several school boards of this state and the superintendents, principals, and other school officials may on "Oklahoma Statehood Day" plan and conduct programs commemorating Oklahoma history and the achievements of Oklahoma from an historical viewpoint and may in other appropriate manner conduct a program or programs for the purpose of teaching and inspiring the school children of our state in the appreciation of the rich Oklahoma heritage and the achievements of the sons and daughters of Oklahoma in peace and war. **(70-24-110)**

Section 500. Bill of Rights Day.

The date of December 15 is hereby designated "Bill of Rights Day" in and for the public schools of this state. Any year in which the date of December 15 is a Saturday, Sunday, or school holiday, the public schools of this state shall observe the next succeeding school day as "Bill of Rights Day," as provided herein. **(70-24-111)**

Section 501. Programs.

The several school boards of this state and the superintendents, principals, and other school officials may on "Bill of Rights Day" plan and conduct programs commemorating the Bill of Rights of the United States Constitution and the Bill of Rights of the Constitution of the State of Oklahoma and may in other appropriate manner conduct programs for the purpose of teaching and inspiring the school children of our state in the appreciation of the significance for individual freedom of said Bills of Rights. **(70-24-112)**

Section 502. Rules and Regulations To Be Adopted by State Board of Education.

The State Board of Education is authorized and directed to adopt such rules and regulations as may be necessary for carrying out the intent and purpose of Sections 24-110 and 24-112 hereof. **(70-24-113)**

Section 503. Pupil Records - Duplicate Copies To Be Kept.

The governing board of each school district in Oklahoma shall require every public school within its jurisdiction to prepare duplicate copies of individual scholastic and other permanent records relating to each pupil enrolled. The duplicate of said records shall be filed in a building separate and apart from the building where the original copy is filed or shall be filed in a fireproof vault designed for the purpose of protecting permanent records. The original copy of said records shall be filed and permanently retained by the respective public schools of this state. **(70-24-114)**

Section 504. Promotion - Retention of Student.

Whenever a teacher or teachers recommend that a student be retained at the present grade level or not passed in a course, the parent or guardian, if dissatisfied with the recommendation, may appeal the decision by complying with the district's appeal process. The decision of the board of education shall be final. The parent may prepare a written statement to be placed in and become a part of the permanent record of the student stating the reason(s) for disagreeing with the decision of the board. **(70-24-114.1)**

Section 505. Storm and Fallout Shelters.

In addition to other authority and powers now or hereafter conferred upon boards of education, the board of education of each school district is hereby authorized and empowered to construct, equip, and maintain storm and fallout shelters independently or jointly with other departments, offices, agencies, and all other entities of federal, state, and local governments. For the purposes of this article, said boards of education are hereby authorized and empowered:

1. To expend funds;

2. To accept federal, state, and local governmental and private funds as may be available;

3. To negotiate and enter into agreements, contractual and otherwise, with such departments, offices, agencies, and other entities of federal, state, and local governments and with private corporations, companies, and individuals;

4. To authorize the construction of said storm and fallout shelters on school properties; and

5. To adopt such rules and regulations governing the use of such facilities as may be deemed necessary and proper, not inconsistent with laws of this state or rules and regulations of the State Board of Education. **(70-24-115)**

Section 506. High School Diplomas - Issued on 30 Hours College Work.

Any person who has been admitted to any accredited college or university may be awarded a high school diploma by the State Department of Education within this state, provided that such person has successfully completed at least thirty (30) hours of college work at an accredited college or university. **(70-24-116)**

Section 507. Safety Goggles - School Board to Provide for Certain Personnel.

The school board of each school district in Oklahoma shall provide safety goggles as approved by the National Safety Council for all personnel using materials and machines that may damage the vision of such personnel because of flying particles, intense light, severe heat or other harmful effects. **(70-24-117)**

Section 508. Respirators - School Board to Provide for Certain Teachers and Students.

The school board of each school district in Oklahoma shall provide respirators where needed in the opinion of the State Health Department as approved by the National Safety Council in sufficient numbers to protect teachers and students in industrial arts, vocational training, technical training and chemistry classes using or handling toxic materials

or other substances which may cause damage to the respiratory system and shall further direct that such respirators be maintained in satisfactory working condition and are located within easy access wherever such materials or substances are used or stored. **(70-24-118)**

Section 509. Ethnic and Racial History Coverage.

The State Board of Education shall adopt necessary rules and regulations providing coverage of the outstanding historical events which recognize the contributions made by African Americans, Hispanic Americans, Native Americans and other ethnic groups to Oklahoma's rich cultural history and heritage. **(70-24-119)**

Section 510. Truancy - Reports to Department of Public Welfare - Withholding of Assistance Payments.

A. At the close of each attendance period of the school term, the board of education of each school district shall notify in writing the Department of Human Services of the name of any child who has not been present for instruction at least eighty percent (80%) of the time without valid excuse as defined in Section 10-105 of this title.

B. Upon the receipt of such information from the school district, the Director of the Department of Human Services is authorized to withhold assistance payments to the payee of such child and to instigate an investigation for the purpose of improving the school attendance of such child. After such investigation, if the attendance record of the child investigated is satisfactory, such withheld payments may be released. In the event the investigation results in change in custody and care of such child, payments to the payee shall be canceled or shall be made to the person qualified to receive benefits on behalf of the child.

C. For purposes of the pilot project, the Department of Human Services and the State Board of Education shall establish a procedure to provide for the exchange of information required by this section concerning students subject to the provisions of this section. Any procedure thus established shall, if applicable, comply with the requirements of the Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232g et seq., and any other applicable federal law.

D. The district attorney shall file with the Department of Human Services a report identifying any child who has been convicted of truancy within thirty (30) days of such conviction. **(70-24-120)**

Section 510.1. Deprived Adjudication Due to Repeated Absence.

A. In cases where the child has been adjudicated to be deprived due to repeated absence from school, the court may order counseling and treatment for the child and the parents.

B. Prior to final disposition, the court shall require verification by the appropriate school district that the child found to be truant has been evaluated for literacy, learning disabilities, developmental disabilities, hearing and visual impairment, and other impediments which could constitute an educational handicap. The results of such assessments or evaluations shall be made available to the court for use by the court in determining the disposition of the case.

C. No child who has been adjudicated deprived upon the basis of noncompliance with the mandatory school attendance law alone may be placed in a public or private institutional facility or be removed from the custody of the lawful parent, legal guardian, or custodian of the child.

D. A deprived adjudication based solely upon repeated absence from school shall not constitute a ground for termination of parental rights. **(10A-1-4-708)**

Section 511. Safety Belts for School Bus Drivers.

No vehicle shall be used by any school district within this state for the transportation of school children on or after the beginning of the 1968-69 school year, unless such vehicle be equipped with a safety belt or safety harness for the use of the driver of such vehicle. Such seat belt and safety harness shall conform to such standards as may be prescribed. The Department of Public Safety shall prescribe standards, and each seat belt or safety harness used in such vehicle shall conform thereto. The Department of Public Safety shall provide the State Board of Education with a detailed description

of the standards prescribed and the said Board shall furnish a copy of such standards to the board of education of each school district. The driver of every vehicle used by a school district for the transportation of school children shall make use of such seat belts while in operation of the vehicle, and failure to do so shall be deemed to constitute a misdemeanor, and upon conviction therefor such driver shall be punished by a fine of not less than Twenty-five Dollars ($25.00) nor more than One Hundred Dollars ($100.00). **(70-24-121)**

Section 511.1 Effect of Headings.

Article and section headings contained in this act shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning or intent of the provisions of any article or section hereof. **(70-24-125)**

Section 512. Jim Thorpe Day.

The date of April 16 of each year is hereby designated "Jim Thorpe Day" in and for the public schools of this state. In any year in which April 16 is a Saturday, Sunday or school holiday, the public schools of this state shall observe the next succeeding school day as "Jim Thorpe Day." The several boards of education of this state and the superintendents, principals and teachers in the public school system may on "Jim Thorpe Day" conduct suitable programs commemorating the accomplishments of Jim Thorpe, the world's greatest athlete and a native Oklahoman, for the purpose of inspiring the school children of this state to greater personal achievements in physical fitness. **(70-24-130)**

Section 513. Orders to Leave School Property.

The superintendent or principal of any secondary, middle, or elementary school shall have the authority to order any person out of the school buildings and off the school property when it appears that the presence of such person is a threat to the peaceful conduct of school business and school classes. Any person who refuses to leave the school buildings or grounds after being ordered to do so by the superintendent or principal, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than Five Hundred Dollars ($500.00) or by imprisonment in the county jail for not more than ninety (90) days, or by both such fine and imprisonment. **(70-24-131)**

Section 513.1. Definitions.

1. "Chief administrative officer" shall mean the principal, superintendent, or other person in charge of the management, administration, or control of any secondary school;

2. "Period of a sanctioned athletic event" shall mean the time during which a sanctioned athletic event occurs and a period of two (2) hours immediately before and after the event;

3. "Premises of the secondary school" shall mean:

a. the real property on which a secondary school is located, including, but not limited to, school buildings, playing fields, gymnasiums, auditoriums, and parking lots owned or leased for use by the secondary school, and

b. the real property on which a recreational facility acquired, constructed or leased by an independent school district or a secondary school is located, including buildings, playing fields, and parking lots;

4. "Sanctioned athletic event" shall mean an athletic contest or sporting event sanctioned by the Oklahoma Secondary School Activities Association; and

5. "Secondary school" shall mean a public or private school subject to the school laws of Oklahoma engaged in the education of students for any of grades seven through twelve. **(70-24-131.1)**

Section 513.2. Authority to Direct to Leave Premises - Penalties.

A. The chief administrative officer or the chief administrative officer's designee to maintain order at a secondary school shall have the authority and power to direct any person to leave the premises of that secondary school, who, during the period of a sanctioned athletic event, after having been personally and specifically warned by the officer or

the designee to refrain from such conduct, commits an act which materially and substantially interferes with the peaceful conduct of a sanctioned athletic event, including:

1. Projecting in any manner an object which could cause bodily harm to another person;

2. Entering the physical boundaries designated for the conduct of a sanctioned athletic event for the purpose of materially and substantially disrupting or interfering with the event;

3. Threatening to kill or do bodily harm to any person with apparent ability to carry out that threat during the period of a sanctioned athletic event; or

4. Using violent, obscene, indecent, or profane language in a manner which materially and substantially interferes with the peaceful conduct of a sanctioned athletic event.

B. Any person who fails to leave the premises of the secondary school as directed, may, upon application by the secondary school, be enjoined from entering upon or remaining upon the premises during the period of a sanctioned athletic event for the remainder of the school year or for so long as the court may provide. The procedure governing the application for injunction shall be the procedure for civil injunctions set forth in Title 12 of the Oklahoma Statutes.

C. Any person who knowingly and willfully fails to obey a direction to leave the premises of the secondary school shall be guilty of a misdemeanor.

D. This section shall not apply to competitors in a sanctioned athletic event, their coaches, or officials, accredited by the Oklahoma Secondary School Activities Association, who are participating in the event. **(70-24-131.2)**

Section 514. School Officials Immune from Liability for Making Certain Reports.

A. Any public school administrator, teacher or counselor having reasonable cause to suspect that a student is under the influence of low-point beer as defined in Section 163.2 of Title 37 of the Oklahoma Statutes, alcoholic beverages as defined in Section 506 of Title 37 of the Oklahoma Statutes or a controlled dangerous substance as defined in Section 2-101 of Title 63 of the Oklahoma Statutes or has in the student's possession low-point beer or alcoholic beverages or a controlled dangerous substance, who reports such information to the appropriate school official, court personnel, community substance abuse prevention and treatment personnel or any law enforcement agency, pursuant to the school's policy shall have immunity from any civil liability that might otherwise be incurred or imposed as a result of the making of such a report.

B. Every school authority shall immediately deliver any controlled dangerous substance, removed or otherwise seized from any minor or other person, to a law enforcement authority for appropriate disposition. **(70-24-132)**

Section 514.1. Delivery of Seized Firearms to Law Enforcement.

Pursuant to the requirements of Section 1271.1 of Title 21 of the Oklahoma Statutes, every school authority shall immediately deliver any weapon or firearm, removed or otherwise seized from any minor, to a law enforcement authority for appropriate disposition. **(70-24-132.1)**

Section 515. Students Under Influence of Nonintoxicating Beverage, Alcoholic Beverage or Controlled Dangerous Substance Written Policy.

A. Whenever it appears to any public school teacher that a student may be under the influence of low-point beer as defined in Section 163.2 of Title 37 of the Oklahoma Statutes, alcoholic beverages as defined in Section 506 of Title 37 of the Oklahoma Statutes or a controlled dangerous substance, as defined in Section 2-101 of Title 63 of the Oklahoma Statutes, that teacher shall report the matter, upon recognition, to the school principal or his or her designee. The principal or designee shall immediately notify the superintendent of schools or designee and a parent or legal guardian of the student of the matter.

No officer or employee of any public school district or member of any school board shall be subject to any civil liability for any statement, report, or action taken in assisting or referring for assistance to any medical treatment or

social service agency or facility or any substance abuse prevention and treatment program any student reasonably believed to be abusing or incapacitated by the use of low-point beer, alcoholic beverages or a controlled dangerous substance unless such assistance or referral was made in bad faith or with malicious purpose. No such officer or employee of any public school district, member of any school board, school or school district shall be responsible for any treatment costs incurred by a student as a result of any such assistance or referral to any medical treatment, social service agency or facility, or substance abuse prevention and treatment program.

B. Every school district shall have and deliver to each classroom teacher a written policy that such teachers shall follow if they have a student who appears to be under the influence of low-point beer, alcoholic beverages or a controlled dangerous substance in their classroom. The written policy shall be developed by the local superintendent of schools and adopted by the local board of education. The provisions of subsection A of this section shall be the minimum requirements of such written policy. The written policy shall be filed with the office of the State Superintendent of Public Instruction within ninety (90) days of the effective date of this act. If such filing is not timely made, the public schools in such school district shall lose their accreditation until the written policy is filed. **(70-24-138)**

Section 516. Program to Develop Leadership Skills for Administrators and Principals.

The State Board of Education shall study programs designed to develop leadership skills for school district administrators and principals which utilized expertise and program availability from private industry. If funds are available, such program shall be adopted and implemented beginning with the 1992-93 school year. **(70-24-140)**

Section 517. Sports Competition Officials - Equal Employment Opportunity.

No school or school district shall belong to or participate in a sports competition sponsored by an organization unless said organization provides all qualified officials, referees or other individuals charged with selecting winners or controlling the conduct of the competition an equal employment opportunity without discrimination on the basis of face, color, religion, age, sex, geographical boundaries or national origin. All amateur sports organizations and schools or school districts shall ensure that all officials, referees and other individuals charged with selecting winners or controlling the conduct of the competition are afforded an equal opportunity to be assigned to serve in such capacity, provided that the official or referee is qualified or is able to adequately perform the job at such place or time. **(70-24-150)**

Section 517.0. Coordination of Spring Break.

A. It is the intent of the Legislature that the State Superintendent of Public Instruction, the Director of the State Department of Vocational and Technical Education, and the Chancellor for Higher Education shall coordinate spring break dates for the public schools, area vocational-technical schools, and institutions within The Oklahoma State System of Higher Education beginning with the 2001-2002 school year.

B. Independent, elementary, and area vocational-technical school districts and institutions within The Oklahoma State System of Higher Education shall schedule spring break dates as determined pursuant to subsection A of this section. **(70-24-151)**

Section 517.0.1. Veterans - Program for Observing.

A. In order to educate students about the sacrifices made for freedom on behalf of this country and the values on which this country was founded, the date of November 11 is hereby designated “Veterans Day”, and the week in which November 11 falls is hereby designated “Celebrate Freedom Week” in and for the public schools of this state. In any year in which the date of November 11 is a Saturday or Sunday or classes are not in regular session, the public schools of this state shall observe the previous school day as “Veterans Day” as provided for in this section. For purposes of this subsection, Sunday shall be considered the first day of the week.

B. The board of education of each public school district shall ensure that each school in its district will on Veterans Day conduct and observe an appropriate program of at least one class period remembering and honoring American veterans. In addition, schools may choose, if scheduling allows, to have a one-minute moment of silence beginning at 11:00 a.m. on November 11 of each year. The benefit of such activity, in addition to honoring American veterans, is to serve to educate students about the termination of World War I at 11:00 a.m. on November 11, 1918,

which was first recognized by United States President Woodrow Wilson on the first anniversary of the truce in a proclamation eulogizing fallen Allied soldiers and referring to November 11 as Armistice Day.

C. By December 31, 2007, the State Board of Education shall adopt rules which require each public school district in the state to include, as a part of a social studies class, during Celebrate Freedom Week or during another full school week as determined by the board of education, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the United States Constitution, including the Bill of Rights, in their historical contexts. The religious references in the writings of the founding fathers shall not be censored. The rules shall require the study of the Declaration of Independence to include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the United States Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.

D. The rules adopted by the State Board of Education pursuant to subsection C of this section shall also provide that during Celebrate Freedom Week or another week of instruction selected by the board of education, students in grades three through twelve study and recite the text quoted below:

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. – That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed."

E. Students may be excused from the recitation of the text set forth in subsection D of this section, if:

1. The parent or guardian of the student submits to the school district a written request that the student be excused;

2. As determined by the school district, the student has a conscientious objection to the recitation; or

3. The student is the child of a representative of a foreign government to whom the United States government extends diplomatic immunity. **(70-24-152)**

Section 517.0.2. Diplomas for World War II, Korean War, and Vietnam War Veterans.

A. In order to recognize and pay tribute to veterans who left high school prior to graduation to serve in World War II, in the Korean War, or in the Vietnam War, a board of education of any independent school district in this state is hereby authorized to grant a diploma of graduation to any veteran who meets the requirements as listed in subsection B of this section. School districts are further encouraged to present such diplomas in conjunction with appropriate Veterans Day programs.

B. To be eligible for a high school diploma pursuant to this section, a veteran shall:

1. Have been honorably discharged from the Armed Forces of the United States of America;

2. Have served on active duty or have been discharged with a service-connected disability between the dates of September 16, 1940, and December 31, 1946, or between the dates of June 27, 1950, and January 31, 1955, or between the dates of May 13, 1961, and April 29, 1975; and

3. Be a resident of the State of Oklahoma.

C. The State Board of Education shall consult with the Department of Veterans Affairs in adopting rules to implement the provisions of this act. **(70-24153)**

Section 517.1. Education Flexible Benefits Allowance Act.

Sections 26-101 through 26-105 of this title shall be known and may be cited as the "Larry Dickerson Education Flexible Benefits Allowance Act". **(70-26-101)**

Section 517.2. Purpose of Act.

It is hereby declared that the purpose of the Larry Dickerson Education Flexible Benefits Allowance Act is:

1. To recognize that the employee benefit needs of individual school district employees differ, depending on the age, salary and family status of the employee, and that it is needful to permit such employees to select and tailor the benefits they receive in a manner calculated to best meet the particular needs of themselves and their families; and

2. To furnish school district employees with choices among various employee benefits or cash compensation. **(70-26-102)**

Section 517.3. Definitions.

1. "Benefit" means any of the benefits which may be purchased or are required to be purchased under the cafeteria plan;

2. "Cafeteria plan" means a benefit plan established pursuant to 26 U.S.C. Section 125;

3. "Flexible benefit allowance" means amounts credited by the school district for each school district employee for the purchase of benefits under the cafeteria plan;

4. "Support personnel" means full-time employees of a school district as determined by the standard period of labor which is customarily understood to constitute full-time employment for the type of services performed by the employees who are employed a minimum of six (6) hours per day for a minimum of one hundred seventy-two (172) days and who provide services not performed by certified personnel, which is necessary for the efficient and satisfactory functioning of a school district, and shall include cooks, janitors, maintenance personnel, bus drivers, noncertified or nonregistered nurses, noncertified librarians, and clerical employees of a school district but shall not include adult education instructors or adult coordinators employed by area technology center school districts;

5. "Plan year" means the twelve-month period established by the school district for the cafeteria plan;

6. "School district" means the public school districts and area technology center school districts of this state;

7. "School district employee" means certified or support personnel as defined in this act;

8. "Certified personnel" means a certified person employed on a full-time basis to serve as a teacher, principal, supervisor, administrator, counselor, librarian, or certified or registered nurse, but shall not mean a superintendent of a school district; and

9. "Self-insured" means a health care program in which the school district funds the benefit plans from its own resources without purchasing insurance and which may be administered by the school district or by an outside administrator under contract with the school district for administrative services. The State Board of Education shall prepare by May 1st of each year a list of each school district in the state that is self-insured and the number of support personnel and the number of certified personnel that are participating in each self-insured school district plan. **(70-26-103)**

Section 517.4. Establishing and Funding of Cafeteria Plan.

A. The Legislature shall annually appropriate adequate funding to the State Board of Education and the State Board of Career and Technology Education for the purpose of providing a flexible benefit allowance to school district employees pursuant to this act. The funding shall be based on the number of eligible school district employees employed by a school district which is participating in the health insurance plan offered by the State and Education Employees Group Insurance Board or is self-insured as counted on May 1st of each year. Each Board shall disburse the flexible benefit allowance funds in appropriate amounts to school districts.

B. Every school district shall establish or make available to school district employees a cafeteria plan pursuant to 26 U.S.C. Section 125 of the United States Code. The plan shall offer, as a benefit, major medical health care plan coverage.

C. The flexible benefit allowance amount established pursuant to Section 26-105 of this title shall be credited to each eligible school district employee. School district employees shall elect whether to use the flexible benefit allowance to pay for coverage in the health insurance plan offered by the State and Education Employees Group Insurance Board or the self-insured plan offered by the school district and may receive the excess flexible benefit allowance as taxable compensation as provided in Section 26-105 of this title.

D. The administrator of the cafeteria plan shall maintain a separate account for each participating school district employee. School districts shall forward the school district employee flexible benefit allowance amounts to the administrator for elected purchases of cafeteria plan benefits.

E. Expenses included in an employee's salary adjustment agreement pursuant to the cafeteria plan shall be limited to expenses for:

1. Premiums for any health insurance, health maintenance organization, life insurance, long term disability insurance, dental insurance or high deductible health benefit plan offered to employees and their dependents; and

2. All other eligible benefit programs offered under 26 U.S.C. Section 125 of the United States Code.

F. The flexible benefit allowance amount established in Section 26-105 of this title shall not be included as income in computation of state retirement contributions and benefits or as part of the Minimum Salary Schedule for teachers established in Section 18-114.12 of this title. School districts shall not consider the flexible benefit allowance amount as income for eligible support employees and thereby shall not reduce the salary of an eligible support employee. **(70-26-104)**

> The education flexible benefit allowance credited to a school district employee's account is to be used exclusively for the purchase of employee benefits or paid as taxable compensation and may not be used otherwise. *September 14, 2001 (AG Op. No. 01-37)*

Section 517.5. Amount of Flexible Benefit Allowance.

A. The flexible benefit allowance shall be used by a school district employee who is participating in the cafeteria plan to purchase major medical health care plan coverage offered by the school district through a cafeteria plan. Any excess flexible benefit allowance over the cost of the major medical coverage purchased by the employee who is participating in the cafeteria plan may be used to purchase any of the additional benefits offered by the school district or may be taken as taxable compensation as provided in subsection C of this section. Certified personnel who choose not to participate in the school-district-sponsored cafeteria plan shall receive Sixty-nine Dollars and seventy-one cents ($69.71) per month as taxable compensation in lieu of the flexible benefit allowance amount provided in subsection B of this section. Support personnel who choose not to participate in the school-district-sponsored cafeteria plan shall receive One Hundred Eighty-nine Dollars and sixty-nine cents ($189.69) per month as taxable compensation in lieu of the flexible benefit allowance amount provided in subsection B of this section.

B. Each eligible school district employee shall be credited annually with a specified amount as a flexible benefit allowance which shall be available for the purchase of benefits. The amount of the flexible benefit allowance credited to each eligible school district employee shall be communicated to the employee prior to the enrollment period for each plan year.

1. For the fiscal year ending June 30, 2002, the flexible benefit allowance amount for certified personnel shall be no less than Sixty-nine Dollars and seventy-one cents ($69.71) per month. For the fiscal year ending June 30, 2002, the flexible benefit allowance amount for support personnel shall be no less than One Hundred Eighty-nine Dollars and sixty-nine cents ($189.69) per month.

2. For the fiscal year ending June 30, 2004, the flexible benefit allowance amount for certified personnel shall be no less than fifty-eight percent (58%) of the premium amount for the HealthChoice (Hi) option plan for an individual offered by the State and Education Employees Group Insurance Board. For the fiscal year ending June 30, 2003, and each fiscal year thereafter, the flexible benefit allowance amount for support personnel shall be no less than one hundred

percent (100%) of the premium amount for the HealthChoice (Hi) option plan for an individual offered by the State and Education Employees Group Insurance Board.

3. For the fiscal year ending June 30, 2005, and each fiscal year thereafter, the flexible benefit allowance amount for certified personnel shall be no less than one hundred percent (100%) of the premium amount for the HealthChoice (Hi) option plan for an individual offered by the State and Education Employees Group Insurance Board.

C. If a school district employee who is participating in the cafeteria plan elects benefits whose sum total is less than the flexible benefit allowance, the employee shall receive any excess flexible benefit allowance as taxable compensation. Such taxable compensation shall be paid in substantially equal amounts each pay period over the plan year. Except as otherwise provided for in subsection D of this section, on termination during a plan year, a participating school district employee shall have no right to receive any taxable cash compensation allocated to the portion of the plan year after the termination of the employee.

D. In cases where the employee of a school district fulfills the terms of their contract and terminates employment for the subsequent year, the employee shall be entitled to the flexible benefit allowance for the remainder of the current benefit term. For purposes of this subsection, "benefit term" shall mean the twelve-month period after the initiation of benefits for the position held by the employee.

E. Each school district employee shall make an annual election of benefits under the plan during an enrollment period to be held prior to the beginning of each plan year. The enrollment period dates will be determined annually and will be announced by the school district, providing the enrollment period shall end no later than thirty (30) days before the beginning of the plan year. Each school district employee shall make an irrevocable advance election for the plan year or the remainder of the plan year pursuant to procedures the school district shall prescribe.

F. The school district shall prescribe the forms that school district employees shall be required to use in making their elections, and may prescribe deadlines and other procedures for filing the elections.

G. School district employees hired after the closing of the enrollment period shall be allowed to make an election as provided in this act.

H. A district board of education shall have the option of providing a flexible benefit allowance to the superintendent of the school district in an amount not more than the amount of the flexible benefit allowance established for certified personnel in subsection B of this section. Funding for the flexible benefit allowance for a superintendent shall be provided through local revenue. **(70-26-105)**

> A school district support employee who has opted to receive his or her entire flexible benefit allowance amount as taxable compensation is not entitled to receive the benefit allowance when the employee has exhausted all sick leave and is unable to work because the employee has performed no compensable services to earn the benefit allowance payment. *February 6, 2003 (AG Op. No. 03-4).*
>
> For the fiscal year ending June 30, 2003, school districts are required to pay 75% of the cost of health care coverage of certified employees, reduced by the flexible benefit allowance. Such obligation is not dependent upon the amount of funding the school district receives from the State Department of Education. *April 7, 2003 (AG Op. No. 03-15).*
>
> The education flexible benefit allowance credited to a school district employee's account is to be used exclusively for the purchase of employee benefits or paid as taxable compensation and may not be used otherwise. *September 14, 2001 (AG Op. No. 01-37)*

Section 517.6. Larry Dickerson Flexible Benefits Allowance Act.

The provisions of the Larry Dickerson Flexible Benefits Allowance Act shall apply to school districts participating in the Oklahoma State Education and Employees Group Insurance Board plan or school districts that are self-insured. **(70-26-105.1)**

Section 518. Holidays - Designation and Dates.

A. The designation and dates of holidays in Oklahoma shall be as follows: Each Saturday, Sunday, New Year's Day on the 1st day of January, Martin Luther King, Jr.'s Birthday on the third Monday in January, President's Day on the third Monday in February, Memorial Day on the last Monday in May, Independence Day on the 4th day of July,

Labor Day on the First Monday in September, Veterans' Day on the 11th day of November, Thanksgiving Day on the fourth Thursday in November, the day after Thanksgiving Day, Christmas on the 25th day of December, the Monday before Christmas if Christmas is on a Tuesday, the Friday after Christmas if Christmas is on a Thursday; and if any of such holidays other than Saturday at any time fall on Saturday, the preceding Friday shall be a holiday in that year and if any of such holidays other than Sunday at any time fall on Sunday, the succeeding Monday shall be a holiday in that year.

B. The Governor shall issue an Executive Order each year specifying the dates on which the holidays other than Saturdays and Sundays designated in subsection A of this section occur. If the President of the United States declares any day other than those listed in subsection A of this section as a national holiday, the Governor may issue an Executive Order declaring such day a state holiday.

C. Any act authorized, required, or permitted to be performed on a holiday as designated in subsection A of this section may be performed on the next succeeding business day, and no liability or loss of rights of any kind shall result from such delay.

D. State employees, except for temporary and other limited term employees, shall be entitled to a day off work without loss of pay on those holidays specified in an Executive Order issued by the Governor pursuant to subsection B of this section. Those state employees, except for temporary and other limited term employees, who are required to work on a holiday specified in subsection B of this section shall be entitled to a day off work, without loss of pay, on an alternative date or payment in lieu thereof at the discretion of the appointing authority and in accordance with rules of the Administrator of the Office of Personnel Management.

E. For the purposes of this section, "holiday" means that agencies whose mission does not require them to be open for business every day of the year shall be closed for official business. **(25-82.1)**

Section 519. Holidays - Additional - Optional.

The following additional days are designated as holidays:

Jefferson Day on the 13th day of April; Oklahoma Day on the 22nd day of April; Mother's Day on the second Sunday in May; Indian Day on the first Saturday after the full moon in September; Cherokee Strip Day on the 16th day of September; Will Rogers' Day on the 4th day of November; Citizenship Recognition Day on such date as may be fixed by the Governor; Oklahoma Historical Day on the 10th day of October; Senior Citizens' Week beginning with the first Sunday in the month of May; Senior Citizens' Day the Wednesday of Senior Citizens' Week; Grandparents' Week beginning with the second Sunday in September; Youth Day on the third Sunday in March each year; each day in which a state election is held throughout the State of Oklahoma; and such other days as may be designated by the President of the United States or the Governor of the State of Oklahoma. Notwithstanding the day designated for Veterans' Day by Section 82.1 of this title, any bank, savings and loan association or credit union may observe the fourth Monday in October as Veterans' Day. Any act authorized, required or permitted to be performed on any holiday as designated in this section may and shall be performed on said day the same as on any business day; provided any state, national or federal reserve bank, building and loan association, credit union, state, federal, county or municipal office may close on any day designated in this section as a holiday, and, upon such bank, building and loan association, credit union, or public office being closed on such day, any act authorized, required or permitted to be performed at or by such bank, building and loan association, credit union, public office or public official may be performed on the next succeeding business day and no liability or loss of rights of any kind shall result from such delay. **(25-82.2)**

Section 519.1. Prisoners of War Remembrance Day.

April ninth of each year is hereby established as "Prisoners of War Remembrance Day" in Oklahoma. The sacrifices of those persons who suffered captivity in foreign lands while in service of their country shall be commemorated on this day. All citizens of this state are requested to devote some portion of Prisoners of War Remembrance Day to solemn contemplation on the plight of the men and women of this country who have been held prisoners of war. Teachers and students of the schools of this state are requested to observe the day with appropriate exercises. **(25-90.4)**

Section 520. Oklahoma City Bombing Remembrance Day.

April nineteenth of each year is hereby established as "Oklahoma City Bombing Remembrance Day" in Oklahoma. The sacrifices of those persons who lost their lives or were injured in the bombing and their loved ones shall be commemorated on this day. All citizens of this state are requested to devote some portion of Oklahoma City Bombing Remembrance Day to solemn contemplation of the tragedy and to reflect on the courage and spirit of cooperation demonstrated by the people of Oklahoma during and after the tragedy. Teachers and students of the schools of this state are requested to observe the day with appropriate exercises**. (25-90.9)**

Section 521. Oklahoma Native American Day.

The Third Monday in November of each year is designated as "Oklahoma Native American Day" in Oklahoma. All citizens of this state are requested to devote some portion of Oklahoma Native American Day to commemorate the accomplishments of Oklahoma's Native Americans. Teachers and students of the schools of this state are requested to observe the day with appropriate activities. **(25-90.12)**

Section 522. Oklahoma Open Meeting Act.

This act shall be known as the Oklahoma Open Meeting Act. **(25-301)**

Section 523. Public Policy.

It is the public policy of the State of Oklahoma to encourage and facilitate an informed citizenry's understanding of the governmental processes and governmental problems. **(25-302)**

Section 524. Meetings of Public Bodies.

All meetings of public bodies, as defined hereinafter, shall be held at specified times and places which are convenient to the public and shall be open to the public, except as hereinafter specifically provided. All meetings of such public bodies shall be preceded by advance public notice specifying the time and place of each such meeting to be convened as well as the subject matter or matters to be considered at such meeting, as hereinafter provided. **(25-303)**

Agenda item to discuss the "employment, hiring, resignation" of an employee was not sufficient to notify the public that city council was considering action to provide a bonus to that employee. *Wilson v. City of Tecumseh*, 2008 OK CIV APP 84, ___ P.3d ___.

Open Meeting Act does not provide for or guarantee citizens the right to participate in the governmental decisions being made at an open meeting nor does it provide citizens a right to express their views on the issues being considered at the meeting. If a public body establishes an open forum for citizens to speak, it may establish reasonable time, place, and manner restrictions. *February 24, 1999 (AG Op. No. 98-45)*

Committees which have decision-making power within the school board are subject to Open Meeting Act. However, committees whose purpose is only fact-finding, advisory, informational, or recommendatory are not subject to Open Meeting Act. *Andrews v. ISD No. 29*, 737 P.2d 929 (Okla. 1987)

Subordinate entity exercising decision making authority delegated to it by Board is subject to Open Meeting Act. *June 12, 1984 (AG Op. No. 84-53)*

When public body meets with group of experts to gain insight into particular matter, meeting must be open to public and satisfy other requirements Open Meeting Act. *November 9, 1982 (AG Op. No. 82-212)*

Cameras and tape recorders may not be barred from meetings of public bodies. *April 16, 1981 (AG Op. No. 81-109)*

An unincorporated association or other entity to which is lawfully delegated decision-making authority by a school district is subject to Open Meeting Act. *August 6, 1980 (AG Op. No. 80-78)*

Meeting of negotiations teams not subject to Oklahoma Open Meeting Act. *December 11, 1978 (AG Op. No. 78-208*)

Section 525. Definitions.

As used in the Oklahoma Open Meeting Act:

1. "Public body" means the governing bodies of all municipalities located within this state, boards of county commissioners of the counties in this state, boards of public and higher education in this state and all boards, bureaus, commissions, agencies, trusteeships, authorities, councils, committees, public trusts or any entity created by a public trust, including any committee or subcommittee composed of any of the members of a public trust or other legal entity receiving funds from the Rural Economic Action Plan Fund as authorized by Section 2007 of Title 62 of the Oklahoma Statutes, task forces or study groups in this state supported in whole or in part by public funds or entrusted with the expending of public funds, or administering public property, and shall include all committees or subcommittees of any public body. Public body shall not include the state judiciary, the Council on Judicial Complaints when conducting, discussing, or deliberating any matter relating to a complaint received or filed with the Council, the Legislature, or administrative staffs of public bodies, including, but not limited to, faculty meetings and athletic staff meetings of institutions of higher education when those staffs are not meeting with the public body, or entry-year assistance committees. Furthermore, public body shall not include the multidisciplinary team provided for in subsection C of Section 1-502.2 of Title 63 of the Oklahoma Statutes or any school board meeting for the sole purpose of considering recommendations of a multidisciplinary team and deciding the placement of any child who is the subject of the recommendations. Furthermore, public body shall not include meetings conducted by stewards designated by the Oklahoma Horse Racing Commission pursuant to Section 203.4 of Title 3A of the Oklahoma Statutes when the stewards are officiating at races or otherwise enforcing rules of the Commission;

2. "Meeting" means the conduct of business of a public body by a majority of its members being personally together or, as authorized by Section 307.1 of this title, together pursuant to a videoconference. Meeting shall not include informal gatherings of a majority of the members of the public body when no business of the public body is discussed;

3. "Regularly scheduled meeting" means a meeting at which the regular business of the public body is conducted;

4. "Special meeting" means any meeting of a public body other than a regularly scheduled meeting or emergency meeting;

5. "Emergency meeting" means any meeting called for the purpose of dealing with an emergency. For purposes of the Oklahoma Open Meeting Act, an emergency is defined as a situation involving injury to persons or injury and damage to public or personal property or immediate financial loss when the time requirements for public notice of a special meeting would make such procedure impractical and increase the likelihood of injury or damage or immediate financial loss;

6. "Continued or reconvened meeting" means a meeting which is assembled for the purpose of finishing business appearing on an agenda of a previous meeting. For the purposes of the Oklahoma Open Meeting Act, only matters on the agenda of the previous meeting at which the announcement of the continuance is made may be discussed at a continued or reconvened meeting; and

7. "Videoconference" means a conference among members of a public body remote from one another who are linked by interactive telecommunication devices permitting both visual and auditory communication between and among members of the public body and members of the public. During any videoconference both the visual and auditory communications functions of the device shall be utilized. Whenever the term "teleconference" appears in any law in relation to a meeting of a public body, it shall be deemed to mean a videoconference as defined in this paragraph. **(25-304)**

A private organization which provides goods or services to the public on behalf of a governmental agency and receives payment from public funds as a reimbursement for goods or services provided is not supported by public funds and thus not a public body. *August 21, 2002 (AG Op. No. 02-37).*

Section 526. Votes.

In all meetings of public bodies, the vote of each member must be publicly cast and recorded. **(25-305)**

When public body meets to vote on particular matter, vote is subject to Open Meeting Act. *November 9, 1982 (AG Op. No. 82-212)*

Member of board operating under Open Meeting Act cannot delegate his right to vote at meeting to another member by use of proxy. *January 20, 1982 (AG Op. No. 82-7)*

Public announcement in presence of board members that vote of board of education was 5-0 in favor of non-renewal of teacher's contract satisfied statutory requirement that vote of each member be publicly cast. *Graybill v. Oklahoma State Board of Education*, 585 P.2d 1358 (Okla. 1978)

Section 527. Informal Gatherings or Communications.

No informal gatherings or any electronic or telephonic communications, except teleconferences as authorized by Section 3 of this act, among a majority of the members of a public body shall be used to decide any action or to take any vote on any matter. **(25-306)**

A single member of a public body may not lawfully meet privately with each other member to obtain signatures on a document and then use that document to take action which otherwise would be required to be considered and voted on in an open meeting. *April 2, 1981 (AG Op. No. 81-69)*

Open Meeting Act applies when members of public body meet among themselves to discuss appropriation of funds. *November 9, 1982 (AG Op. No. 82-212)*

When majority of members of public body are together in an informal setting and begin discussing matters concerning business of public body, discussion comes under auspices of Open Meeting Act. *November 9, 1882 (AG Op. No. 82-212)*

Section 528. Executive Sessions.

A. No public body shall hold executive sessions unless otherwise specifically provided in this section.

B. Executive sessions of public bodies will be permitted only for the purpose of:

1. Discussing the employment, hiring, appointment, promotion, demotion, disciplining or resignation of any individual salaried public officer or employee;

2. Discussing negotiations concerning employees and representatives of employee groups;

3. Discussing the purchase or appraisal of real property;

4. Confidential communications between a public body and its attorney concerning a pending investigation, claim, or action if the public body, with the advice of its attorney, determines that disclosure will seriously impair the ability of the public body to process the claim or conduct a pending investigation, litigation, or proceeding in the public interest;

5. Permitting district boards of education to hear evidence and discuss the expulsion or suspension of a student when requested by the student involved or the student's parent, attorney or legal guardian;

6. Discussing matters involving a specific handicapped child;

7. Discussing any matter where disclosure of information would violate confidentiality requirements of state or federal law;

8. Engaging in deliberations or rendering a final or intermediate decision in an individual proceeding pursuant to Article II of the Administrative Procedures Act; or

9. Discussing the following:

a. the investigation of a plan or scheme to commit an act of terrorism,

b. assessments of the vulnerability of government facilities or public improvements to an act of terrorism,

c. plans for deterrence or prevention of or protection from an act of terrorism,

d. plans for response or remediation after an act of terrorism,

e. information technology of the public body but only if the discussion specifically identifies:

(1) design or functional schematics that demonstrate the relationship or connections between devices or systems,

(2) system configuration information,

(3) security monitoring and response equipment placement and configurations,

(4) specific location or placement of systems, components or devices,

(5) system identification numbers, names, or connecting circuits,

(6) business continuity and disaster planning, or response plans, or

(7) investigation information directly related to security penetrations or denial of services, or

f. the investigation of an act of terrorism that has already been committed.

For the purposes of this subsection, the term "terrorism" means any act encompassed by the definitions set forth in section 1268.1 of Title 21 of the Oklahoma Statutes.

* * * * *

D. An executive session for the purpose of discussing the purchase or appraisal of real property shall be limited to members of the public body, the attorney for the public body, and the immediate staff of the public body. No landowner, real estate salesperson, broker, developer, or any other person who may profit directly or indirectly by a proposed transaction concerning real property which is under consideration may be present or participate in the executive session.

E. No public body may go into an executive session unless the following procedures are strictly complied with:

1. The proposed executive session is noted on the agenda as provided in Section 311 of this title;

2. The executive session is authorized by a majority vote of a quorum of the members present and the vote is a recorded vote; and

3. Except for matters considered in executive sessions of the State Banking Board and the Oklahoma Savings and Loan Board, and which are required by state or federal law to be confidential, any vote or action on any item of business considered in an executive session shall be taken in public meeting with the vote of each member publicly cast and recorded.

F. A willful violation of the provisions of this section shall:

1. Subject each member of the public body to criminal sanctions as provided in Section 314 of this title; and

2. Cause the minutes and all other records of the executive session, including tape recordings, to be immediately made public. **(25-307)**

Note: See Section 62 -- Excluding Litigious Board Member from Proceedings

No one other than those enumerated in subsection D are allowed to attend the executive sessions wherein the appraisal or the purchase of real property is discussed. *Lafalier v. The Lead-impacted Communities Relocation Assistance Trust*, 2010 OK 48.

Under the Oklahoma Open Meeting Act ("Act"), 25 O.S. Supp.2006, 307(B)(3), a public body may meet in executive session to discuss the purchase or appraisal of real property, but the Act contains no authority allowing a public body to meet in executive session to discuss the sale of real property. *October 11, 2007 (AG Op. No. 07-32)*

Statutory provision authorizing executive sessions of public bodies for the purpose of discussing certain employment matters applies to discussing particular current or prospective public officers or employees and does not permit the discussion of a job opening for a public officer or employee when no particular individual is to be discussed. *May 11, 2006 (AG Op. No. 06-17)*

Discussing award of a contract for professional services when the recipient will be an independent contractor, rather than a public officer or employee of the public body, is not a proper subject for an executive session. A body may convene in executive session for confidential communication with its attorney concerning pending investigation, claims, or actions, if the body and the attorney determine that disclosure will seriously impair the public body's ability to address the issue in the public interest. A "pending claim" can refer to litigation or an administrative action which either presently exists or is merely potential or anticipated. *August 31, 2005 (AG OP. No. 05-29)*

An agenda item for an executive session to discuss personnel matter must identify either the position to be discussed, if the position is so unique as to allow adequate identification, or the name of the individual to be discussed. When the action is hiring, the agenda item must clearly identify the specific position to be filled. *January 26, 1998 (AG Op. No. 97-61)*

A public body may go into executive session for the purpose of discussing the salary of an individual salaried public officer or employee. *July 23, 1996 (AG Op. No. 96-40)*

Under 25-307, a public body may hold executive sessions to discuss the appointment of salaried employees and public officials to fill vacancies. The public body is not required to hold an executive session and should make a determination as to whether an executive session is warranted. *November 24, 1992. (AG Op. No. 92-23)*

Board cannot hold executive session to hear parental complaint or grievance except when board is considering expulsion or suspension of student. *June 30, 1982 (AG Op. No. 82-209)*

Public body cannot confer in executive session with its attorney on legal issues raised during open hearing on disciplinary complaint. *March 26, 1979 (AG Op. No. 79-32)*

Executive session may be held for confidential communication between board and attorney if communications concern a pending investigation, claim or action. *Okla. Assoc. Of Municipal Attorney*s *v. State,* 577 P.2d 1310 (Okla. 1978)

Section 529. Authorized Teleconferences.

A. A public body may hold meetings by videoconference where each member of the public body is visible and audible to each other and the public through a video monitor, subject to the following:

1. No less than a quorum of the public body shall be present in person at the meeting site as posted on the meeting notice and agenda;

2. The meeting notice and agenda prepared in advance of the meeting, as required by law, shall indicate the meeting will include videoconferencing locations and shall state:

a. the location, address, and telephone number of each available videoconference site, and

b. the identity of each member of the public body and the specific site from which each member of the body shall be physically present and participating in the meeting;

3. After the meeting notice and agenda are prepared and posted, as required by law, no member of the public body shall be allowed to participate in the meeting from any location other than the specific location posted on the agenda in advance of the meeting;

4. In order to allow the public the maximum opportunity to attend and observe each public official carrying out the duties of the public official, a member or members of a public body desiring to participate in a meeting by videoconference shall participate in the videoconference from a site and room located within the district or political subdivision from which they are elected, appointed, or are sworn to represent;

5. Each site and room where a member of the public body is present for a meeting by videoconference shall be open and accessible to the public, and the public shall be allowed into that site and room. Public bodies may provide additional videoconference sites as a convenience to the public, but additional sites shall not be used to exclude or discourage public attendance at any videoconference site;

6. The public shall be allowed to participate and speak, as allowed by rule or policy set by the public body, in a meeting at the videoconference site in the same manner and to the same extent as the public is allowed to participate or speak at the site of the meeting;

7. Any materials shared electronically between members of the public body, before or during the videoconference, shall also be immediately available to the public in the same form and manner as shared with members of the public body; and

8. All votes occurring during any meeting conducted using videoconferencing shall occur and be recorded by roll call vote.

B. No public body shall conduct an executive session by videoconference. **(25-307.1)**

Section 530. Meetings with Governor.

Any meeting between the Governor and a majority of members of any public body shall be open to the public and subject to all other provisions of this act. **(25-308)**

Section 531. Meetings of Legislature.

The Legislature shall conduct open meetings in accordance with rules to be adopted by each house thereof. **(25-309)**

Section 532. Attendance of Legislative Committees at Executive Sessions.

Any member of the Legislature appointed as a member of a committee of either house of the Legislature or joint committee thereof shall be permitted to attend any executive session authorized by the Oklahoma Open Meeting Act of any state agency, board or commission whenever the jurisdiction of such committee includes the actions of the public body involved. **(25-310)**

Section 533. Notice of Meetings.

A. Notwithstanding any other provisions of law, all regularly scheduled, continued or reconvened, special or emergency meetings of public bodies shall be preceded by public notice as follows:

1. All public bodies shall give notice in writing by December 15 of each calendar year of the schedule showing the date, time and place of the regularly scheduled meetings of such public bodies for the following calendar year.

2. All state public bodies, including, but not limited to, public trusts and other bodies with the state as beneficiary, shall give such notice to the Secretary of State.

3. All county public bodies, including, but not limited to, public trusts and other bodies with the county as beneficiary, shall give such notice to the county clerk of the county wherein they are principally located.

4. All municipal public bodies, including, but not limited to, public trusts and any other bodies with the municipality as beneficiary, shall give such notice to the municipal clerk of the municipality wherein they are principally located.

5. All multicounty, regional, areawide or district public bodies, including, but not limited to, district boards of education, shall give such notice to the county clerk of the county wherein they are principally located, or if no office exists, to the county clerk of the county or counties served by such public body.

6. All governing boards of state institutions of higher education, and committees and subcommittees thereof, shall give such notice to the Secretary of State. All other public bodies covered by the provisions of this act which exist under the auspices of a state institution of higher education, but a majority of whose members are not members of the institution's governing board, shall give such notice to the county clerk of the county wherein the institution is principally located.

7. The Secretary of State and each county clerk or municipal clerk shall keep a record of all notices received in a register open to the public for inspection during regular office hours, and, in addition, shall make known upon any request of any person the contents of said register.

8. If any change is to be made of the date, time or place of regularly scheduled meetings of public bodies, then notice in writing shall be given to the Secretary of State or county clerk or municipal clerk, as required herein, not less than ten (10) days prior to the implementation of any such change.

9. In addition to the advance public notice in writing required to be filed for regularly scheduled meetings, all public bodies shall, at least twenty-four (24) hours prior to such meetings, display public notice of said meeting, setting forth thereon the date, time, place and agenda for said meeting, such twenty-four (24) hours prior public posting shall exclude Saturdays and Sundays and holidays legally declared by the State of Oklahoma; provided, however, the posting of an agenda shall not preclude a public body from considering at its regularly scheduled meeting any new business. Such public notice shall be posted in prominent public view at the principal office of the public body or at the location of said meeting if no office exists. "New business", as used herein, shall mean any matter not known about or which could not have been reasonably foreseen prior to the time of posting.

10. In the event any meeting is to be continued or reconvened, public notice of such action, including date, time and place of the continued meeting, shall be given by announcement at the original meeting. Only matters appearing on the agenda of the meeting which is continued may be discussed at the continued or reconvened meeting.

11. Special meetings of public bodies shall not be held without public notice being given at least forty-eight (48) hours prior to said meetings. Such public notice of date, time and place shall be given in writing, in person or by telephonic means to the Secretary of State or to the county clerk or to the municipal clerk by public bodies in the manner set forth in paragraphs 2, 3, 4, 5 and 6 of this section. The public body also shall cause written notice of the date, time and place of the meeting to be mailed or delivered to each person, newspaper, wire service, radio station, and television station that has filed a written request for notice of meetings of the public body with the clerk or secretary of the public body or with some other person designated by the public body. Such written notice shall be mailed or delivered at least forty-eight (48) hours prior to the special meeting. The public body may charge a fee of up to Eighteen Dollars ($18.00) per year to persons or entities filing a written request for notice of meetings, and may require such persons or entities to renew the request for notice annually. In addition, all public bodies shall, at least twenty-four (24) hours prior to such special meetings, display public notice of said meeting, setting forth thereon the date, time, place and agenda for said meeting. Only matters appearing on the posted agenda may be considered at said special meeting. Such public notice shall be posted in prominent public view at the principal office of the public body or at the location of said meeting if no office exists. Twenty-four (24) hours prior to public posting shall exclude Saturdays and Sundays and holidays legally declared by the State of Oklahoma.

12. In the event of an emergency, an emergency meeting of a public body may be held without the public notice heretofore required. Should an emergency meeting of a public body be necessary, the person calling such a meeting shall give as much advance public notice as is reasonable and possible under the circumstances existing, in person or by telephonic or electronic means.

B. 1. All agendas required pursuant to the provisions of this section shall identify all items of business to be transacted by a public body at a meeting, including, but not limited to, any proposed executive session for the purpose of engaging in deliberations or rendering a final or intermediate decision in an individual proceeding prescribed by the Administrative Procedures Act.

2. If a public body proposes to conduct an executive session, the agenda shall:

a. contain sufficient information for the public to ascertain that an executive session will be proposed;

b. identify the items of business and purposes of the executive session; and

c. state specifically the provision of Section 307 of this title authorizing the executive session. **(25-311)**

A public body is not required under the Open Meeting Act to provide an opportunity for citizens to express their view on issues being considered by a public body. A public body may voluntarily choose to allow such comments. A public body which allows such comments may limit the comments to items on the agenda or may allow for comment

on any matters. If comments are to be allowed, an agenda item which provides for "visitors' comments" or "public comments" is sufficient to meet the notice requirements of the Act. *July 9, 2002 (AG Op. No. 02-26).*

Agenda of State Textbook Committee failed to provide sufficient notice that it was going to consider disclaimer for textbooks. *February 2, 2000 (AG Op. No. 00-7)*

Notices and agendas required to be posted should be posted in a conspicuous place which is easily accessible and convenient to the public for at least 24 hours prior to the meeting in a location at the public body's principal office. *February 18, 1998 (AG Op. No. 97-98)*

All matters to be discussed at a meeting of a public body must be listed on the agenda for the meeting, including a proposal for an executive session. A*pril 12, 1982 (AG Op. No. 82-114)*

Public body may go into executive session with its attorney to discuss ongoing litigation under "new business" provided matters to be discussed could not have been known about or reasonably foreseen prior to time of posting the agenda. *April 12, 1982 (AG Op. No. 82-114)*

Function of an agenda for a meeting of a public body is to provide public with a factual explanation of matters to be taken up at the meeting. *March 23, 1982 (AG Op. No. 82-81)*

Board of Education cannot appoint new member during regularly-scheduled meeting absent entry of item on published agenda, unless appointment falls within definition of "new business." *June 11, 1981 (AG Op. No. 81-141)*

At a re-scheduled or reconvened meeting of a public body only matters appearing on the original agenda may be considered. *July 10, 1981 (AG Op. No. 81-92)*

Agenda must be worded in plain language that is simple, direct and comprehensible to a person of ordinary education and intelligence. *Order Declaring Annexation*, 637 P.2d 902 (Okla. App. 1981)

Notice and agenda provisions of Open Meeting Act are integral to the Act, and violations of these provisions are significant and material. Violations need not be malicious or wanton to constitute breaking the law. Mere deliberate disregard of Act's provisions violates the Act. *Order Declaring Annexation*, 637 P.2d 1270 (Okla. App. 1981)

Section 533.1. Posting on Websites.

A. On or before January 1, 2002, or within six (6) months of the establishment of an Internet website, whichever is later, public bodies shall make available on their Internet website or on a general website if a public body uses a general website, a schedule and information about the regularly scheduled meetings of the public bodies or their governing bodies. The information made available shall include the date, time, place and agenda of each meeting. When reasonably possible, public bodies shall also provide information about the date, time, place and agenda of any special or emergency meetings of the public body.

B. The provisions of subsection A of this section shall not be construed to amend or alter the requirements of the Oklahoma Open Meeting Act.

C. On or before January 1, 2002, or within six (6) months of the establishment of an Internet website, whichever is later, public bodies shall make available on their Internet website the names of members of their governing bodies and such other information about the members as the public body may choose to include.

D. For purposes of this section, "public body" is defined as provided by paragraph 1 of Section 304 of Title 25 of the Oklahoma Statutes and shall include each institution within The Oklahoma State System of Higher Education. **(74-3106.2)**

Section 533.2. Electronic Filing.

Whenever any provision of law directs that a report, administrative rule, budget work program, budget request, or any other document be filed with the Governor, President Pro Tempore of the Senate or the Speaker of the House of Representatives, such documents shall be filed electronically, except as otherwise provided in this section. The Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives shall each create or cause to be created on the official websites for the Governor, Senate and House of Representatives, respectively, a mechanism for such filings to be made, with an electronic return receipt provided to the person making the filing. If for any reason the person required to file such document determines that it cannot be filed electronically, the person shall file a printed copy in lieu of such electronic filing and shall include an explanation of the reason that the document could not be filed electronically. **(74-464)**

Section 533.3. Oklahoma Government Website Information Act.

This act shall be known and may be cited as the "Oklahoma Government Website Information Act". **(74-3106.3)**

Section 533.4. Information to be Posted on Government Websites.

A. On or before January 1, 2011, public bodies shall make available on their Internet website or on a general website if a public body uses a general website, the following:

1. Any administrative rules adopted pursuant to the Administrative Procedures Act, which the public body uses to operate;

2. Any proposed administrative rules submitted by the public body pursuant to the Administrative Procedures Act;

3. Any statutes effecting the public body and its operations; and

4. Any statutes the public may find useful in interacting with the public body.

B. For purposes of this section, "public body" is defined as provided by paragraph 1 of Section 304 of Title 25 of the Oklahoma Statutes. **(74-3106.4)**

Section 534. Minutes.

A. The proceedings of a public body shall be kept by a person so designated by such public body in the form of written minutes which shall be an official summary of the proceedings showing clearly those members present and absent, all matters considered by the public body, and all actions taken by such public body. The minutes of each meeting shall be open to public inspection and shall reflect the manner and time of notice required by this act.

B. In the written minutes of an emergency meeting, the nature of the emergency and the proceedings occurring at such meeting, including reasons for declaring such emergency meeting, shall be included.

C. Any person attending a public meeting may record the proceedings of said meeting by videotape, audiotape or by any other method; providing, however, such recording shall not interfere with the conduct of the meeting. **(25-312)**

> Minutes of executive sessions of meetings of boards of education must be kept. This requirement may be met by taking a written summary of the proceedings. Any person legally present during the executive session of a board of education may take the minutes of the executive session. *January 27, 1997 (AG Op. No. 96-100)*

Section 535. Violations of Act.

Any action taken in willful violation of this act shall be invalid. **(25-313)**

> Vote of State Textbook Committee pursuant to insufficient agenda was a willful violation of Act and therefore invalid. *February 2, 2000 (AG Op. No. 00-7)*

Section 536. Penalty for Violation.

Any person or persons willfully violating any of the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding Five Hundred Dollars ($500.00) or by imprisonment in the county jail for a period not exceeding one (1) year or by both such fine and imprisonment. **(25-314)**

> Willful violation is all that needs to be proven; criminal intent need not be proven because the crime is malum prohibitum. *Hilliary v. State*, 483, P.2d 483, 630 P.2d 791 (Okla. Ct. Crim. App. 1981)

Section 537. Minutes of Board - Copies for Newspapers.

It shall be the mandatory duty of the minute clerk of the board of each school district and the clerk of the governing body of each city and town to furnish the tentative minutes of every regular and/or special meeting of such school boards and municipal governing bodies to legal newspapers requesting the same in writing, provided any such newspaper must be located in the same county as all or apart of the school district or municipality to which such request is made.

Provided further that such minutes shall be furnished within five (5) days after all such regular and/or special meetings to eligible newspapers requesting the same and that any such written request shall be effective and said minutes shall be furnished in compliance therewith for the current calendar year or remaining portion thereof unless a shorter period shall be specified in said request. **(25-115)**

Note: This section was not codified as part of Open Meeting Act.

Section 538. Oklahoma Open Records Act.

Section 24A.1 et seq. of this title shall be known and may be cited as the "Oklahoma Open Records Act". **(51-24A.1)**

There are no constitutional, statutory or common law methods by which a statewide elected official may be suspended from office, voluntarily or involuntarily prior to an actual conviction of a crime. *March 24, 2008 (AG Op. No. 08-6)*

A public body may not make rules, policy or procedures that conflict with the Open Records Act or its enabling legislation. *Nov. 9, 2006 (AG Op. No. 06-35)*

Section 539. Policy.

As the Oklahoma Constitution recognizes and guarantees, all political power is inherent in the people. Thus, it is the public policy of the State of Oklahoma that the people are vested with the inherent right to know and be fully informed about their government. The Oklahoma Open Records Act shall not create, directly or indirectly any rights of privacy or any remedies for violation of any rights of privacy; nor shall the Oklahoma Open Records Act, except as specifically set forth in the Oklahoma Open Records Act, establish any procedures for protecting any person from release of information contained in public records. The purpose of this act is to ensure and facilitate the public's right of access to and review of government records so they may efficiently and intelligently exercise their inherent political power. The privacy interests of individuals are adequately protected in the specific exceptions to the Oklahoma Open Records Act or in the statutes which authorize, create or require the records. Except where specific state or federal statutes create a confidential privilege, persons who submit information to public bodies have no right to keep this information from public access nor reasonable expectation that this information will be kept from public access; provided, the person, agency or political subdivision shall at all times bear the burden of establishing such records are protected by such a confidential privilege. Except as may be required by other statutes, public bodies do not need to follow any procedures for providing access to public records except those specifically required by the Oklahoma Open Records Act. **(51-24A.2)**

The Open Records Act requires public bodies to allow the public to have access to records for inspection, copying, and/ or mechanical reproduction during regular business hours, except for certain materials required by law to be kept confidential. A public body may establish reasonable procedures to protect the integrity and organization of its records and to prevent excessive disruptions of its essential functions. The use by a requesting person of his or her own copying equipment is not prohibited by the Act and must be permitted as long as the person's copying process does not unreasonably disrupt the essential functions of the public body or result in the defacing or loss of such records. There is no requirement that a public body supply an original document to the person requesting such record as long as the copy furnished is a true and correct copy of the original. *Nov. 9, 2006 (AG Op. No. 06-35)*

Section 540. Definitions.

Definitions. As used in this act:

1. "Record" means all documents, including, but not limited to, any book, paper, photograph, microfilm, data files created by or used with computer software, computer tape, disk, and record, sound recording, film recording, video record or other material regardless of physical form or characteristic, created by, received by, under the authority of, or coming into the custody, control or possession of public officials, public bodies, or their representatives in connection

with the transaction of public business, the expenditure of public funds or the administering of public property. "Record" does not mean computer software, nongovernment personal effects or, unless public disclosure is required by other laws or regulations, vehicle movement records of the Oklahoma Transportation Authority obtained in connection with the Authority's electronic toll collection system, personal financial information, credit reports or other financial data obtained by or submitted to a public body for the purpose of evaluating credit worthiness, obtaining a license, permit, or for the purpose of becoming qualified to contract with a public body. "Record" does not mean any digital audio/video recordings of the toll collection and safeguarding activities of the Oklahoma Transportation Authority. "Record" does not mean any personal information provided by a guest at any facility owned or operated by the Oklahoma Tourism and Recreation Department or the Board of Trustees of the Quartz Mountain Arts and Conference Center and Nature Park to obtain any service at such facility or by a purchaser of a product sold by or through the Oklahoma Tourism and Recreation Department or the Quartz Mountain Arts and Conference Center and Nature Park. "Record" does not mean a Department of Defense Form 214 (DD Form 214) filed with a county clerk, including any DD Form 214 filed before the effective date of this act;

2. "Public body" shall include, but not be limited to, any office, department, board, bureau, commission, agency, trusteeship, authority, council, committee, trust or any entity created by a trust, county, city, village, town, township, district, school district, fair board, court, executive office, advisory group, task force, study group, or any subdivision thereof, supported in whole or in part by public funds or entrusted with the expenditure of public funds or administering or operating public property, and all committees, or subcommittees thereof. Except for the records required by Section 24A.4 of this title, "public body" does not mean judges, justices, the Council on Judicial Complaints, the Legislature, or legislators;

3. "Public office" means the physical location where public bodies conduct business or keep records;

4. "Public official" means any official or employee of any public body as defined herein; and

5. "Law enforcement agency" means any public body charged with enforcing state or local criminal laws and initiating criminal prosecutions, including, but not limited to, police departments, county sheriffs, the Department of Public Safety, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission, and the Oklahoma State Bureau of Investigation. **(51-24A.3)**

A copy of a written or electronic communication "created by" a third-party public body or official and sent to a legislator; a written or electronic communication from a legislator sent to a third-party public body or official upon being "received by" the public body or official; a written or electronic communication from an employee of the Legislature upon being "received by" a third-party public body or official; and a copy of a written or electronic communication "created by" a third-party public body and sent to an employee within his or her scope and duties of the Legislature are all records subject to the Oklahoma Open Records Act. *(AG Op. No. 08-19)*

An electronic mail item created or received by a public body which is connected with the transaction of official business, the expenditure of public funds, or the administration of public property constitutes a record. Such electronic mail may be retained in either electronic form or on paper. *November 7, 2001 (AG Op. No. 01-46)*

A membership list of a public body, no matter in what form it is kept, is a record and must be made available to the public unless the law specifically requires it to be kept confidential. *March 2, 1995 (AG Op. No. 95-15)*

Telephone bills for landline or cellular phones received by a public body in connection with the expenditure of public funds are records pursuant to the Open Records Act; however, information on such bills may be withheld if a privilege of confidentiality exists. *March 13, 1996 (AG Op. No. 95-97)*

Records of State Board of Education relating to the General Educational Development (GED) High School Equivalency Certificate Program are public records. *December 13, 1978 (AG Op. No. 78-209)*

Section 541. Duty of Public Bodies and Public Officials to Keep and Maintain Records.

In addition to other records which are kept or maintained, every public body and public official has a specific duty to keep and maintain complete records of the receipt and expenditure of any public funds reflecting all financial and business transactions relating thereto, except that such records may be disposed of as provided by law. **(51-24A.4)**

Section 542. Records To Be Open to Public - Exceptions - Fees for Copies.

All records of public bodies and public officials shall be open to any person for inspection, copying, and/or mechanical reproduction during regular business hours; provided:

1. The Oklahoma Open Records Act, Section 24A.1 et seq. of this title, does not apply to records specifically required by law to be kept confidential including:

a. records protected by a state evidentiary privilege such as the attorney-client privilege, the work product immunity from discovery and the identity of informer privileges, or

b. records of what transpired during meetings of a public body lawfully closed to the public such as executive sessions authorized under the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes, or

c. personal information within driver records as defined by the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725, or

d. information in the files of the Board of Medicolegal Investigations obtained pursuant to Sections 940 and 941 of Title 63 of the Oklahoma Statutes that may be hearsay, preliminary unsubstantiated investigation-related findings, or confidential medical information.

2. Any reasonably segregable portion of a record containing exempt material shall be provided after deletion of the exempt portions, provided however, the Oklahoma Department of Public Safety shall not be required to assemble for the requesting person specific information requested from the Oklahoma Department of Public Safety's Driver License file relating to persons whose names and dates of birth or whose driver license numbers are not furnished by the requesting person.

The Oklahoma State Bureau of Investigation shall not be required to assemble for the requesting person any criminal history records relating to persons whose names, dates of birth, and other identifying information required by the Oklahoma State Bureau of Investigation pursuant to administrative rule are not furnished by the requesting person.

3. Any request for a record which contains individual records of persons and the cost of copying, reproducing or certifying such individual record which is otherwise prescribed by state law, the cost may be assessed for each individual record, or portion thereof requested as prescribed by state law. Otherwise, a public body may charge a fee only for recovery of the reasonable, direct costs of document copying, or mechanical reproduction. Notwithstanding any state or local provision to the contrary, in no instance shall said document copying fee exceed twenty-five cents ($0.25) per page for documents having the dimensions of eight and one-half (8 ½) by fourteen (14) inches or smaller, or a maximum of One Dollar ($1.00) per copied page for a certified copy. However, if the request:

a. is solely for commercial purpose, or

b. would clearly cause excessive disruption of the public body's essential functions,

then the public body may charge a reasonable fee to recover the direct cost of document search; however, publication in a newspaper or broadcast by news media for news purposes shall not constitute a resale or use of data for trade or commercial purpose and charges for providing copies of electronic data to the news media for a news purpose shall not exceed the direct cost of making the copy.

Any public body establishing fees under this act shall post a written schedule of said fees at its principal office and with the county clerk.

In no case shall a search fee be charged when the release of said documents is in the public interest, including, but not limited to, release to the news media, scholars, authors and taxpayers seeking to determine whether those entrusted with the affairs of the government are honestly, faithfully, and competently performing their duties as public servants.

The fees shall not be used for the purpose of discouraging requests for information or as obstacles to disclosure of requested information.

4. The land description tract index of all recorded instruments concerning real property required to be kept by the county clerk of any county shall be available for inspection or copying in accordance with the provisions of the Oklahoma Open Records Act; provided, however, such index shall not be copied and/or mechanically reproduced for the purpose of sale of such information.

5. A public body must provide prompt, reasonable access to its records but may establish reasonable procedures which protect the integrity and organization of its records and to prevent excessive disruptions of its essential functions.

6. A public body shall designate certain persons who are authorized to release records of the public body for inspection, copying, or mechanical reproduction. At least one such person shall be available at all times to release records during the regular business hours of the public body. **(51-24A.5)**

E-mails, text messages, and other electronic communications made or received in connection with the transaction of public business, the expenditure of public funds or the administration of public property, are subject to the Oklahoma Open Records Act and the Records Management Act regardless of whether they are created, received, transmitted, or maintained by government officials on publicly or privately owned equipment and communication devices, unless some provision of law makes them confidential. *(AG Op. No. 09-12)*

The Open Records Act requires public bodies to allow the public to have access to records for inspection, copying, and/ or mechanical reproduction during regular business hours, except for certain materials required by law to be kept confidential. A public body may establish reasonable procedures to protect the integrity and organization of its records and to prevent excessive disruptions of its essential functions. The use by a requesting person of his or her own copying equipment is not prohibited by the Act and must be permitted as long as the person's copying process does not unreasonably disrupt the essential functions of the public body or result in the defacing or loss of such records. There is no requirement that a public body supply an original document to the person requesting such record as long as the copy furnished is a true and correct copy of the original. *Nov. 9, 2006 (AG Op. No. 06-35)*

Furnishing electronic copies of instruments kept by the clerk in computer-readable format is subject to the fee limitations of the Oklahoma Open Records Act. *June 29, 2005 (AG Op. No. 05-21)*

A public body that contracts with a private vendor to provide electronic access to and reproduction of the public body's records at another location or through the world wide web, is still required to provide access to its records for inspection, copying, or mechanical reproduction at the public body's office. If a public body has more than one office location, its records must be maintained and made available to the public at the office where the records are located in the ordinary course of business. A public body may use a vendor to store records off site, but when a person requests records the records must be retrieved from the storage site and provided to the requester at the public body's office. *January 31, 2005 (AG Op. No. 05-03)*

An agency has the authority to allow a requestor access to specific data in a file in an electronic format as long as the system permitting the electronic access is secure enough to preserve the records and safeguard them from destruction, mutilation, and alteration. Additionally, such system must also provide for any confidential information to remain confidential. *November 7, 2001 (AG Op. No. 01-46)*

A public body may charge as fees the reasonable, direct costs of the mechanical reproduction of records which are in a computer-readable format and may charge a search fee if the request for records is solely for commercial purposes and would clearly cause excessive disruption to the public body's essential functions. Thus, a public body may not sell public records to a private business for resale to the public. *January 16, 1997 (AG Op. No. 96-26)*

Where plaintiffs requested that certain confidential records be "coded" by agency and then released under Open Records Act, the material issue that must be determined is whether a new record is created. *Progressive Independence, Inc. v. Oklahoma State Dept. of Health, 2007 OK CIV APP 124, 174 P.3d 1005*

Even if the request for information is a "public interest" request, the public agency may charge a search fee when the search of public records is going to cause substantial disruption of business of public agency. *McVarish v. New Horizons Community Counseling and Mental Health Services, Inc.*, 909 P.2d 155 (Okla. App. 1995)

Public interest is as equally well served by public agencies performing essential services without burdensome, disruptive records requests as in providing release of information to taxpayers. *McVarish v. New Horizons Community Counseling and Mental Health Services, Inc.*, 909 P.2d 155 (Okla. App. 1995)

A state agency which has computerized its files, the information therein being a public record, has the authority to allow commercial entity access to specific data in that file in an on-line manner, providing that the system for permitting such on-line access assures that such computerized records will be fully preserved and safeguarded from destruction, mutilation and alteration as otherwise required by Oklahoma law. *April 30, 1986 (AG Op. No. 85-36)*

Section 543. Notice Where Regular Business Hours Are Not Maintained.

A. If a public body or its office does not have regular business hours of at least thirty (30) hours a week, the public body shall post and maintain a written notice at its principal office and with the county clerk where the public body is located which notice shall:

1. Designate the days of the week when records are available for inspecting, copying or mechanical reproduction;

2. Set forth the name, mailing address, and telephone number of the individual in charge of the records; and

3. Describe in detail the procedures for obtaining access to the records at least two days of the week, excluding Sunday.

B. The person requesting the record and the person authorized to release the records of the public body may agree to inspection, copying, or mechanical reproduction on a day and at a time other than that designated in the notice. **(51-24A.6)**

Section 544. Certain Personnel Records May Be Kept Confidential.

A. A public body may keep personnel records confidential:

1. Which relate to internal personnel investigations including examination and selection material for employment, hiring, appointment, promotion, demotion, discipline, or resignation; or

2. Where disclosure would constitute a clearly unwarranted invasion of personal privacy such as employee evaluations, payroll deductions, employment applications submitted by persons not hired by the public body, and transcripts from institutions of higher education maintained in the personnel files of certified public school employees; provided, however, that nothing in this subsection shall be construed to exempt from disclosure the degree obtained and the curriculum on the transcripts of certified public school employees.

B. All personnel records not specifically falling within the exceptions provided in subsection A of this section shall be available for public inspection and copying including, but not limited to, records of:

1. An employment application of a person who becomes a public official;

2. The gross receipts of public funds;

3. The dates of employment, title or position; and

4. Any final disciplinary action resulting in loss of pay, suspension, demotion of position, or termination.

C. Except as may otherwise be made confidential by statute, an employee of a public body shall have a right of access to his own personnel file.

D. Public bodies shall keep confidential the home address, telephone numbers and social security numbers of any person employed or formerly employed by the public body. **(51-24A.7)**

The Legislature intended to provide a non-exclusive list of examples of information for which release may amount to an unwarranted invasion of personal privacy. Thus, agency must apply a case-by-case balancing testing to determine whether personal information is subject to release. With respect to birth dates of employees, release of birth dates and employee identification numbers constitutes a clearly unwarranted invasion of personal privacy. *Okla. Public Employees Assoc. v. State ex rel. Okla. Office of Personnel Management*, 2011 OK 68.

A public body may keep confidential a record indicating the name of an employee who has been placed on administrative leave with pay if, under the personnel policies of the public body, the action constitutes neither a "final" or "disciplinary" action, nor a "final disciplinary action resulting in loss of pay, suspension, demotion of position, or termination." (*AG Op. No. 09-33*)

A public body has discretion to determine that disclosing a personnel record indicating the date of birth of an employee of the public body is an "unwarranted invasion of [the] personal privacy" of the employee. (*AG Op. No. 09-33*)

Public bodies are required to keep the home address of present and former employees confidential. *July 19, 1999 (AG Op. No. 99-30)*

Public bodies may keep the telephone numbers of employees confidential if disclosure would constitute a clearly unwarranted invasion of personal privacy. *July 19, 1999 (AG Op. No. 99-30)*

When an employee is discharged because of a positive drug testing result, the employer must disclose to a potential employer only that the employee was terminated whereas records of the investigation may be kept confidential. *October 13, 1997 (AG Op. No. 97-79)*

An employer may disclose a current or former employee's job performance information and/or evaluations to prospective employees when such disclosure is done with the consent or at the request of the current or former employee, even though the Open Records Act allows such records to be kept confidential. *December 10, 1997 (AG Op. No. 97-48)*

Section 545. Law Enforcement Agencies.

A. Law enforcement agencies shall make available for public inspection, if kept, the following records:

1. An arrestee description, including the name, date of birth, address, race, sex, physical description, and occupation of the arrestee;

2. Facts concerning the arrest, including the cause of arrest and the name of the arresting officer;

3. A chronological list of all incidents, including initial offense report information showing the offense, date, time, general location, officer, and a brief summary of what occurred;

4. Radio logs, including a chronological listing of the calls dispatched;

5. Conviction information, including the name of any person convicted of a criminal offense;

6. Disposition of all warrants, including orders signed by a judge of any court commanding a law enforcement officer to arrest a particular person;

7. A crime summary, including an agency summary of crimes reported and public calls for service by classification or nature and number; and

8. Jail registers, including jail blotter data or jail booking information recorded on persons at the time of incarceration showing the name of each prisoner with the date and cause of commitment, the authority committing the prisoner, whether committed for a criminal offense, a description of the prisoner, and the date or manner of discharge or escape of the prisoner.

B. Except for the records listed in subsection A of this section and those made open by other state or local laws, law enforcement agencies may deny access to law enforcement records except where a court finds that the public interest or the interest of an individual outweighs the reason for denial.

C. Nothing contained in this section imposes any new recordkeeping requirements. Law enforcement records shall be kept for as long as is now or may hereafter be specified by law. Absent a legal requirement for the keeping of a law enforcement record for a specific time period, law enforcement agencies shall maintain their records for so long as needed for administrative purposes.

D. Registration files maintained by the Department of Corrections pursuant to the provisions of the Sex Offenders Registration Act shall be made available for public inspection in a manner to be determined by the Department.

E. The Council on Law Enforcement Education and Training (C.L.E.E.T.) shall keep confidential all records it maintains pursuant to Section 3311 of Title 70 of the Oklahoma Statutes and deny release of records relating to any employed or certified full-time officer, reserve officer, retired officer or other person; teacher lesson plans, tests and other teaching materials; and personal communications concerning individual students except under the following circumstances:

1. To verify the current certification status of any peace officer;

2. As may be required to perform the duties imposed by Section 3311 of Title 70 of the Oklahoma Statutes;

3. To provide to any peace officer copies of the records of that peace officer upon submitting a written request;

4. To provide, upon written request, to any law enforcement agency conducting an official investigation, copies of the records of any peace officer who is the subject of such investigation;

5. To provide final orders of administrative proceedings where an adverse action was taken against a peace officer; and

6. Pursuant to an order of the district court of the State of Oklahoma.

F. The Department of Public Safety shall keep confidential:

1. All records it maintains pursuant to its authority under Title 47 of the Oklahoma Statutes relating to the Oklahoma Highway Patrol Division, the Communications Division, and other divisions of the Department relating to:

a. training, lesson plans, teaching materials, tests, and test results,

b. policies, procedures, and operations, any of which are of a tactical nature, and

c. the following information from radio logs:

(1) telephone numbers,

(2) addresses other than the location of incidents to which officers are dispatched, and

(3) personal information which is contrary to the provisions of the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725; and

2. For the purpose of preventing identity theft and invasion of law enforcement computer systems, except as provided in Title 47 of the Oklahoma Statutes, all driving records. **(51-24A.8)**

Section 546. Personal Notes and Personally Created Materials.

Prior to taking action, including making a recommendation or issuing a report, a public official may keep confidential his or her personal notes and personally created materials other than departmental budget requests of a public body prepared as an aid to memory or research leading to the adoption of a public policy or the implementation of a public project. **(51--24A.9)**

Section 547. Disclosure When Unfair Advantage Would Be Given to Competitors or Bidders.

A. Any information, records or other material heretofore voluntarily supplied to any state agency, board or commission which was not required to be considered by that agency, board or commission in the performance of its duties may, within thirty (30) days from June 6, 1988, be removed from the files of such agency, board or commission by the person or entity which originally voluntarily supplied such information. Provided, after thirty (30) days from the effective date of this act, any information voluntarily supplied shall be subject to full disclosure pursuant to this act.

B. If disclosure would give an unfair advantage to competitors or bidders, a public body may keep confidential records relating to:

1. Bid specifications for competitive bidding prior to publication by the public body; or

2. Contents of sealed bids prior to the opening of bids by a public body; or

3. Computer programs or software but not data thereon; or

4. Appraisals relating to the sale or acquisition of real estate by a public body prior to award of a contract; or

5. The prospective location of a private business or industry prior to public disclosure of such prospect except for records otherwise open to inspection such as applications for permits or licenses.

C. Except as set forth hereafter, the Oklahoma Department of Commerce, the Oklahoma Department of Career and Technology Education, the technology center school districts, and the Oklahoma Film and Music Office may keep confidential:

1. Business plans, feasibility studies, financing proposals, marketing plans, financial statements or trade secrets submitted by a person or entity seeking economic advice, business development or customized training from such Departments or school districts;

2. Proprietary information of the business submitted to the Department or school districts for the purpose of business development or customized training, and related confidentiality agreements detailing the information or records designated as confidential; and

3. Information compiled by such Departments or school districts in response to those submissions.

The Oklahoma Department of Commerce, the Oklahoma Department of Career and Technology Education, the technology center school districts, and the Oklahoma Film and Music Office may not keep confidential that submitted information when and to the extent the person or entity submitting the information consents to disclosure.

D. Although they must provide public access to their records, including records of the address, rate paid for services, charges, consumption rates, adjustments to the bill, reasons for adjustment, the name of the person that authorized the adjustment, and payment for each customer, public bodies that provide utility services to the public may keep confidential credit information, credit card numbers, telephone numbers, social security numbers, bank account information for individual customers, and utility supply and utility equipment supply contracts for any industrial customer with a connected electric load in excess of two thousand five hundred (2,500) kilowatts if public access to such contracts would give an unfair advantage to competitors of the customer; provided that, where a public body performs billing or collection services for a utility regulated by the Corporation Commission pursuant to a contractual agreement, any customer or individual payment data obtained or created by the public body in performance of the agreement shall not be a record for purposes of this act. **(51-24A.10)**

Section 548. Library, Archive or Museum Materials.

A. A public body may keep confidential library, archive, or museum materials donated to the public body to the extent of any limitations imposed as a condition of the donation and any information which would reveal the identity of an individual who lawfully makes a donation to or on behalf of a public body including, but not limited to, donations made through a foundation operated in compliance with Sections 5-145 and 4306 of Title 70 of the Oklahoma Statutes.

B. If library, archive, or museum materials are donated to a public body and the donation may be claimed as a tax deduction, the public body may keep confidential any information required as a condition of the donation except the date of the donation, the appraised value claimed for the donation, and a general description of the materials donated and their quantity. **(51-24A.11)**

Section 549. Litigation Files and lnvestigatory Reports.

Except as otherwise provided by state or local law, the Attorney General of the State of Oklahoma and agency attorneys authorized by law, the office of the district attorney of any county of the state, and the office of the municipal attorney of any municipality may keep its litigation files and investigatory reports confidential. **(51-24A.12)**

Section 550. Confidentiality Required by Federal Law.

Records coming into the possession of a public body from the federal government or records generated or gathered as a result of federal legislation may be kept confidential to the extent required by federal law. **(51-24A.13)**

Section 551. Personal Communications from Person Exercising Constitutional Right.

Except for the fact that a communication has been received and that it is or is not a complaint, a public official may keep confidential personal communications received by the public official from a person exercising rights secured by the Constitution of the State of Oklahoma or the Constitution of the United States. The public official's written response

to this personal communication may be kept confidential only to the extent necessary to protect the identity of the person exercising the right. **(51-24A.14)**

Section 552. Crop and Livestock Reports.

The Division of Agricultural Statistics, Oklahoma Department of Agriculture (also known as the Oklahoma Crop and Livestock Reporting Service), may keep confidential crop and livestock reports provided by farmers, ranchers, and agri-businesses to the extent the reports individually identify the providers. **(51-24A.15)**

Section 553. Public Educational Institutions - Student Records.

A. Except as set forth in subsection B of this section, public educational institutions and their employees may keep confidential:

1. Individual student records;

2. Teacher lesson plans, tests and other teaching material; and

3. Personal communications concerning individual students.

B. If kept, statistical information not identified with a particular student and directory information shall be open for inspection and copying. "Directory information" includes a student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational institution attended by the student. Any educational agency or institution making public directory information shall give public notice of the categories of information which it has designated as directory information with respect to each student attending the institution or agency and shall allow a reasonable period of time after the notice has been given for a parent to inform the institution or agency that any or all of the information designated should not be released without prior consent of the parent or guardian or the student if the student is eighteen (18) years of age or older.

C. A public school district may release individual student records for the current or previous school year to a school district at which the student was previously enrolled for purposes of evaluating educational programs and school effectiveness. **(51-24A.16)**

Note: See also Section 822.1

Section 554. Penalty for Violation of Act - Civil Remedies.

A. Any public official who willfully violates any provision of the Oklahoma Open Records Act, upon conviction, shall be guilty of a misdemeanor, and shall be punished by a fine not exceeding Five Hundred Dollars ($500.00) or by imprisonment in the county jail for a period not exceeding one (1) year, or by both such fine and imprisonment.

B. Any person denied access to a record of a public body or public official may bring a civil suit for declarative and/or injunctive relief and, if successful, shall be entitled to reasonable attorney fees. If the public body or public official successfully defends a civil suit and the court finds that the suit was clearly frivolous, the public body or public official shall be entitled to reasonable attorney fees.

C. A public body or public official shall not be civilly liable for damages for providing access to records as allowed under the Oklahoma Open Records Act. **(51-24A.17)**

> The Oklahoma Open Records Act provides a remedy in the form of a civil suit for declaratory and/or injunctive relief to a person denied access to a record of a public body or public official. *City of Broken Arrow v. Bass Pro Outdoor World, L.L.C.*, 2011 OK 1.

Section 555. Additional Recordkeeping Requirement Not Imposed by Act.

Except as may be required in Section 4 of this act, this act does not impose any additional recordkeeping requirements on public bodies or public officials. **(51-24A.18)**

Section 555.1. Confidentiality of Research and Technology Records.

In addition to other records that a public body may keep confidential pursuant to the provisions of the Oklahoma Open Records Act, a public body may keep confidential:

1. Any information related to research, the disclosure of which could affect the conduct or outcome of the research, the ability to patent or copyright the research, or any other proprietary rights any entity may have in the research or the results of the research including, but not limited to, trade secrets and commercial or financial information obtained from an entity financing or cooperating in the research, research protocols, and research notes, data, results, or other writings about the research; and

2. The specific terms and conditions of any license or other commercialization agreement relating to state owned or controlled technology or the development, transfer, or commercialization of the technology. Any other information relating to state owned or controlled technology or the development, transfer, or commercialization of the technology which, if disclosed, will adversely affect or give other persons or entities an advantage over public bodies in negotiating terms and conditions for the development, transfer, or commercialization of the technology. However, institutions within The Oklahoma State System of Higher Education shall:

a. report to the Oklahoma State Regents for Higher Education as requested, on forms provided by the Regents, research activities funded by external entities or the institutions, the results of which have generated new intellectual property, and

b. report to the Oklahoma State Regents for Higher Education annually on forms provided:

(1) expenditures for research and development supported by the institution,

(2) any financial relationships between the institution and private business entities,

(3) any acquisition of an equity interest by the institution in a private business,

(4) the receipt of royalty or other income related to the sale of products, processes, or ideas by the institution or a private business entity with which the institution has established a financial arrangement,

(5) the gains or losses upon the sale or other disposition of equity interests in private business entities, and

(6) any other information regarding technology transfer required by the Oklahoma State Regents for Higher Education.

The reports required in subparagraphs a and b of this paragraph shall not be deemed confidential and shall be subject to full disclosure pursuant to the Oklahoma Open Records Act. **(51-24A.19)**

Section 556. Access to Records Being Used for Investigation or Litigation.

Access to records which, under the Oklahoma Open Records Act, would otherwise be available for public inspection and copying, shall not be denied because a public body or public official is using or has taken possession of such records for investigatory purposes or has placed the records in a litigation or investigation file. However, a law enforcement agency may deny access to a copy of such a record in an investigative file if the record or a true and complete copy thereof is available for public inspection and copying at another public body. **(51-24A.20)**

Section 557. State Agency or Taxing Agency - When Not Charged for Records.

The fees that may be charged by a public body pursuant to the provisions of paragraph 3 of Section 24A.5 of Title 51 of the Oklahoma Statutes shall not be charged when a state agency or taxing entity located within the boundaries of any district created pursuant to the provisions of the Local Development Act request a copy of the reports required by subsections A and B of Section 18 of this act. **(51-24A.21)**

Section 557.1. Office of Juvenile System Oversight.

Unless otherwise provided by law, the Office of Juvenile System Oversight may keep its investigatory records and notes confidential, unless ordered by a court of competent jurisdiction to disclose the information. **(51-24A.23)**

Section 557.2. Confidentiality of Records Regarding Terrorism and Security.

A. The following information may be kept confidential:

1. Investigative evidence of a plan or scheme to commit an act of terrorism;

2. Assessments of the vulnerability of government facilities or public improvements to an act of terrorism and work papers directly related to preparing the assessment of vulnerability;

3. Records including details for deterrence or prevention of or protection from an act or threat of an act of terrorism;

4. Records including details for response or remediation after an act of terrorism;

5. Information technology of a public body or public official but only if the information specifically identifies:

a. design or functional schematics that demonstrate the relationship or connections between devices or systems,

b. system configuration information,

c. security monitoring and response equipment placement and configuration,

d. specific location or placement of systems, components or devices,

e. system identification numbers, names, or connecting circuits,

f. business continuity and disaster planning, or response plans, or

g. investigative information directly related to security penetrations or denial of services;

6. Investigation evidence of an act of terrorism that has already been committed;

7. Records received, maintained or generated by the Oklahoma Office of Homeland Security which include confidential private business information or an individual's private records; and

8. Records received by the Oklahoma Office of Homeland Security from the United States Department of Homeland Security or records maintained or generated by the Oklahoma Office of Homeland Security involving the United States Department of Homeland Security.

B. The following information shall not be kept confidential:

1. Records related to federal grants administered by the Oklahoma Office of Homeland Security;

2. Records related to the receipt and expenditure of public funds; or

3. Records related to the financial performance or financial administration of the Oklahoma Office of Homeland Security.

C. For the purposes of this section, the term "terrorism" means any act encompassed by the definitions set forth in Section 1268.1 of Title 21 of the Oklahoma Statutes.

D. 1. Public educational institutions may keep confidential campus security plans. An institution or agency may in its discretion release information contained in or related to the campus security plan in order to design or implement the plan.

2. Nothing in this subsection shall preclude an institution or agency within The Oklahoma State System of Higher Education from collecting and releasing information relating to campus crime statistics and campus security policies as is required pursuant to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. 1092(f).

3. For purposes of this subsection, "campus security plan" shall include, but is not limited to, prevention and response procedures to and notification procedures for perceived or actual security threats and incidents on or impacting the campus. **(51-24A.28)**

Section 558. The Governmental Tort Claims Act.

This act shall be known and may be cited as "The Governmental Tort Claims Act." **(51-151)**

> Under the GTCA, a political subdivision is immune as a matter of law from a claim of tortious interference with a business relationship, committed by its employee, because that tort requires an element of bad faith and thus cannot be committed within the scope of employment by an employee. *Tuffy's, Inc. v. City of Oklahoma City*, 2009 OK 4, ___ P.3d ___.
>
> The Governor and officials of political subdivisions ordering evacuations during emergencies would be protected by the general immunity provisions of the Oklahoma Governmental Tort Claims Act. *April 23, 2007 (AG Op. No. 07-11)*
>
> Unless a statute of limitations specifically provides otherwise, statutes of limitations do not apply to the state when it is suing in the sovereign capacity. The Oklahoma Governmental Tort Claims Act does not provide otherwise. *State ex rel. Oklahoma Department of Transportation v. Board of County Commissioners, 2007 OK CIV APP 126, 174 P.3d 1010*

Section 559. Definitions.

Section 152. As used in The Governmental Tort Claims Act:

1. "Action" means a proceeding in a court of competent jurisdiction by which one party brings a suit against another;

2. "Agency" means any board, commission, committee, department or other instrumentality or entity designated to act in behalf of the state or a political subdivision;

3. "Charitable health care provider" means a person who is licensed, certified, or otherwise authorized by the laws of this state to administer health care in the ordinary course of business or the practice of a profession and who provides care to a medically indigent person, as defined in paragraph 8 of this section, with no expectation of or acceptance of compensation of any kind;

4. "Claim" means any written demand presented by a claimant or the claimant's authorized representative in accordance with this act to recover money from the state or political subdivision as compensation for an act or omission of a political subdivision or the state or an employee;

5. "Claimant" means the person or the person's authorized representative who files notice of a claim in accordance with The Governmental Tort Claims Act. Only the following persons and no others may be claimants:

a. any person holding an interest in real or personal property which suffers a loss, provided that the claim of the person shall be aggregated with claims of all other persons holding an interest in the property and the claims of all other persons which are derivative of the loss, and that multiple claimants shall be considered a single claimant,

b. the individual actually involved in the accident or occurrence who suffers a loss, provided that the individual shall aggregate in the claim the losses of all other persons which are derivative of the loss, or

c. in the case of death, an administrator, special administrator or a personal representative who shall aggregate in the claim all losses of all persons which are derivative of the death;

6. "Community health care provider" means:

a. a health care provider who volunteers services at a community health center that has been deemed by the U.S. Department of Health and Human Services as a federally qualified health center as defined by 42 U.S.C., Section 1396d(l)(2)(B),

b. a health provider who provides services to an organization that has been deemed a federally qualified look-alike community health center, and

c. a health care provider who provides services to a community health center that has made application to the U.S. Department of Health and Human Services for approval and deeming as a federally qualified look-alike community health center in compliance with federal application guidance, and has received comments from the U.S. Department of Health and Human Services as to the status of such application with the established intent of resubmitting a modified application, or, if denied, a new application, no later than six (6) months from the date of the official notification from the U.S. Department of Health and Human Services requiring resubmission of a new application;

7. "Employee" means any person who is authorized to act in behalf of a political subdivision or the state whether that person is acting on a permanent or temporary basis, with or without being compensated or on a full-time or part-time basis.

a. Employee also includes:

(1) all elected or appointed officers, members of governing bodies and other persons designated to act for an agency or political subdivision, but the term does not mean a person or other legal entity while acting in the capacity of an independent contractor or an employee of an independent contractor,

(2) from September 1, 1991, through June 30, 1996, licensed physicians, licensed osteopathic physicians and certified nurse-midwives providing prenatal, delivery or infant care services to State Department of Health clients pursuant to a contract entered into with the State Department of Health in accordance with paragraph 3 of subsection B of Section 1-106 of Title 63 of the Oklahoma Statutes but only insofar as services authorized by and in conformity with the terms of the contract and the requirements of Section 1-233 of Title 63 of the Oklahoma Statutes, and

(3) any volunteer, full-time or part-time firefighter when performing duties for a fire department provided for in subparagraph j of paragraph 11 of this section.

b. For the purpose of The Governmental Tort Claims Act, the following are employees of this state, regardless of the place in this state where duties as employees are performed:

(1) physicians acting in an administrative capacity,

(2) resident physicians and resident interns participating in a graduate medical education program of the University of Oklahoma Health Sciences Center, the College of Osteopathic Medicine of Oklahoma State University, or the Department of Mental Health and Substance Abuse Services,

(3) faculty members and staff of the University of Oklahoma Health Sciences Center and the College of Osteopathic Medicine of Oklahoma State University, while engaged in teaching duties,

(4) physicians who practice medicine or act in an administrative capacity as an employee of an agency of the State of Oklahoma,

(5) physicians who provide medical care to inmates pursuant to a contract with the Department of Corrections,

(6) any person who is licensed to practice medicine pursuant to Title 59 of the Oklahoma Statutes, who is under an administrative professional services contract with the Oklahoma Health Care Authority under the auspices of the Oklahoma Health Care Authority Chief Medical Officer, and who is limited to performing administrative duties such as professional guidance for medical reviews, reimbursement rates, service utilization, health care delivery and benefit design for the Oklahoma Health Care Authority, only while acting within the scope of such contract,

(7) licensed medical professionals under contract with city, county, or state entities who provide medical care to inmates or detainees in the custody or control of law enforcement agencies, and

(8) licensed mental health professionals as defined in Sections 1-103 and 5-502 of Title 43A of the Oklahoma Statutes, who are conducting initial examinations of individuals for the purpose of determining whether an individual meets the criteria for emergency detention as part of a contract with the Department of Mental Health and Substance Abuse Services.

Physician faculty members and staff of the University of Oklahoma Health Sciences Center and the College of Osteopathic Medicine of Oklahoma State University not acting in an administrative capacity or engaged in teaching duties are not employees or agents of the state.

c. Except as provided in subparagraph b of this paragraph, in no event shall the state be held liable for the tortious conduct of any physician, resident physician or intern while practicing medicine or providing medical treatment to patients;

8. "Loss" means death or injury to the body or rights of a person or damage to real or personal property or rights therein;

9. "Medically indigent" means a person requiring medically necessary hospital or other health care services for the person or the dependents of the person who has no public or private third-party coverage, and whose personal resources are insufficient to provide for needed health care;

10. "Municipality" means any incorporated city or town, and all institutions, agencies or instrumentalities of a municipality;

11. "Political subdivision" means:

a. a municipality,

b. a school district, including, but not limited to, a technology center school district established pursuant to Section 4410, 4411, 4420 or 4420.1 of Title 70 of the Oklahoma Statutes,

c. a county,

d. a public trust where the sole beneficiary or beneficiaries are a city, town, school district or county. For purposes of The Governmental Tort Claims Act, a public trust shall include:

(1) a municipal hospital created pursuant to Sections 30-101 through 30-109 of Title 11 of the Oklahoma Statutes, a county hospital created pursuant to Sections 781 through 796 of Title 19 of the Oklahoma Statutes, or is created pursuant to a joint agreement between such governing authorities, that is operated for the public benefit by a public trust created pursuant to Sections 176 through 180.4 of Title 60 of the Oklahoma Statutes and managed by a governing board appointed or elected by the municipality, county, or both, who exercises control of the hospital, subject to the approval of the governing body of the municipality, county, or both,

(2) a public trust created pursuant to Sections 176 through 180.4 of Title 60 of the Oklahoma Statutes after January 1, 2009, the primary purpose of which is to own, manage, or operate a public acute care hospital in this state that serves as a teaching hospital for a medical residency program provided by a college of osteopathic medicine and provides care to indigent persons, and

(3) a corporation in which all of the capital stock is owned, or a limited liability company in which all of the member interest is owned, by a public trust,

e. for the purposes of The Governmental Tort Claims Act only, a housing authority created pursuant to the provisions of the Oklahoma Housing Authority Act,

f. for the purposes of The Governmental Tort Claims Act only, corporations organized not for profit pursuant to the provisions of the Oklahoma General Corporation Act for the primary purpose of developing and providing rural water supply and sewage disposal facilities to serve rural residents,

g. for the purposes of The Governmental Tort Claims Act only, districts formed pursuant to the Rural Water, Sewer, Gas and Solid Waste Management Districts Act,

h. for the purposes of The Governmental Tort Claims Act only, master conservancy districts formed pursuant to the Conservancy Act of Oklahoma,

i. for the purposes of The Governmental Tort Claims Act only, a fire protection district created pursuant to the provisions of Section 901.1 et seq. of Title 19 of the Oklahoma Statutes,

j. for the purposes of The Governmental Tort Claims Act only, a benevolent or charitable corporate volunteer or full-time fire department for an unincorporated area created pursuant to the provisions of Section 592 et seq. of Title 18 of the Oklahoma Statutes,

k. for purposes of The Governmental Tort Claims Act only, an Emergency Services Provider rendering services within the boundaries of a Supplemental Emergency Services District pursuant to an existing contract between the Emergency Services Provider and the State Department of Health. Provided, however, that the acquisition of commercial liability insurance covering the activities of such Emergency Services Provider performed within the State of Oklahoma shall not operate as a waiver of any of the limitations, immunities or defenses provided for political subdivisions pursuant to the terms of The Governmental Tort Claims Act,

l. for purposes of The Governmental Tort Claims Act only, a conservation district created pursuant to the provisions of the Conservation District Act,

m. for purposes of The Governmental Tort Claims Act, districts formed pursuant to the Oklahoma Irrigation District Act,

n. for purposes of The Governmental Tort Claims Act only, any community action agency established pursuant to Sections 5035 through 5040 of Title 74 of the Oklahoma Statutes,

o. for purposes of The Governmental Tort Claims Act only, any organization that is designated as a youth services agency, pursuant to Section 2-7-306 of Title 10A of the Oklahoma Statutes,

p. for purposes of The Governmental Tort Claims Act only, any judge presiding over a drug court, as defined by Section 471.1 of Title 22 of the Oklahoma Statutes,

q. for purposes of The Governmental Tort Claims Act only, any child-placing agency licensed by this state to place children in foster family homes, and

r. a circuit engineering district created pursuant to Section 687.1 of Title 69 of the Oklahoma Statutes,

and all their institutions, instrumentalities or agencies;

12. "Scope of employment" means performance by an employee acting in good faith within the duties of the employee's office or employment or of tasks lawfully assigned by a competent authority including the operation or use of an agency vehicle or equipment with actual or implied consent of the supervisor of the employee, but shall not include corruption or fraud;

13. "State" means the State of Oklahoma or any office, department, agency, authority, commission, board, institution, hospital, college, university, public trust created pursuant to Title 60 of the Oklahoma Statutes of which the State of Oklahoma is the beneficiary, or other instrumentality thereof; and

14. "Tort" means a legal wrong, independent of contract, involving violation of a duty imposed by general law or otherwise, resulting in a loss to any person, association or corporation as the proximate result of an act or omission of a political subdivision or the state or an employee acting within the scope of employment. **(51-152)**

A state agency may lawfully assign duties to its employees including the use of any agency vehicle. In assigning duties, a state agency may define an employee's official duty to include travel to or from the employee's place of residence under certain situations which are of benefit to the agency. *July 10, 2007 (AG Op. No. 07-18)*

Officers and employees of government agencies, including the state, are protected from tort liability while performing discretionary functions, however, that protection does not render them immune from liability for acts of willful and wanton negligence. *Mullins v. Okla. Public Employees Ret. Sys., 2005* OK CIV APP 67, 122 P.3d 872

Whether an employee is acting within the scope of his employment depends on whether his conduct is in good faith and within the duties of his employment. *Winters v. Overton*, 1999 OK CIV APP 43, 980 P.2d 1128

Parents of student who died while at school failed to have themselves appointed as personal representative of child until after the one year statute of limitations had passed. However, parents were performing functions of personal representative prior to court appointment and that was held sufficient to meet the definition of "claimant". *Calvert v. Tulsa Public Schools*, 932 P.2d 1087 (Okla. 1996)

Claimant is person seeking relief for loss. *ISD No. 29 v. Crawford*, 688 P.2d 1291 (Okla. 1984)

Section 560. Sovereign Immunity.

A. The State of Oklahoma does hereby adopt the doctrine of sovereign immunity. The state, its political subdivisions, and all of their employees acting within the scope of their employment, whether performing governmental or proprietary functions, shall be immune from liability for torts.

B. The state, only to the extent and in the manner provided in this act, waives its immunity and that of its political subdivisions. In so waiving immunity, it is not the intent of the state to waive any rights under the Eleventh Amendment to the United State Constitution. **(51-152.1)**

School district employee who backed school bus into motorist's car was acting within the scope of his employment at time tort was committed and is immune from liability. *Williams v. ISD No. 7*, 881 P.2d 760 (Okla. App. 1994)

Absent allegations or evidence showing that official of Corporation Commission was acting outside scope of his employment in connection with termination of employee, Act immunized officials from tort liability. *Rooks v. State,* 842 P.2d 773 (Okla. App. 1992)

A municipality, or a Title 60 public trust with a municipality as its sole beneficiary, has no authority to pay private property owners the costs of additional damages to property as a result of a sanitary sewer backup outside of what is statutorily available under the Governmental Tort Claims Act. *(AG Op. No. 09-4)*

Immunity afforded to state employees under the Tort Claims Act has a limited application to tort actions filed in state court, under state law, and does not impact employee's potential liability, if any, which might arise under federal law, including the Civil Rights Act, at 42 U.S.C., §1983. *January 10, 1990 (AG Op. No. 89-75)*

Section 561. Liability for Torts.

A. The state or a political subdivision shall be liable for loss resulting from its torts or the torts of its employees acting within the scope of their employment subject to the limitations and exceptions specified in this act and only where the state or political subdivision, if a private person or entity, would be liable for money damages under the laws of this state. The state or a political subdivision shall not be liable under the provisions of this act for any act or omission of an employee acting outside the scope of his employment.

B. The liability of the state or political subdivision under this act shall be exclusive and in place of all other liability of the state, a political subdivision or employee at common law or otherwise. **(51-153)**

Liability of the state or political subdivision is exclusive, and in place of all other liability of the state, political subdivision or employee at common law or otherwise. Employees under the GTCA are within the protection of respondeat superior liability for those duties within the scope of employment, and individual employees are immunized from tort liability when acting within the scope of employment. *Speight v. Presley*, 2008 OK 99, 203 P.3d 173.

Employer's ratification of employee's decision established prima facie that employee acted within the scope of his employment and that he is entitled to immunity from personal liability as provided in the GTCA. *Shephard v. Compsource Oklahoma*, 2009 OK 25, 209 P.3d 288.

City could not be held liable on plaintiff's claim of intentional tort of outrage or malicious prosecution because, if city officials acted intentionally or willfully, then they did not act in good faith and were not within the scope of their employment. *McMullen v. City of Del City*, 920 P.2d 528 (Okla. App. 1996)

One acts within the scope of employment if engaged in work assigned, or if doing that which is proper, necessary, and usual to accomplish the work assigned, or if doing that which is customary within the particular trade or business. Whether an employee has acted within the scope of employment is a question of fact for the jury except when only one reasonable conclusion can be drawn from the facts. *Nail v. City of Henryetta*, 911 P.2d 914 (Okla. 1996)

School district not liable because of alleged lack of adequate supervision in school gymnasium for injuries sustained by middle school student when fellow student pushed him from bleachers; undisputed fact showed that incident was sudden and unprovoked, and it was mere speculation that incident would not have occurred with better supervision. *Butler v. Oklahoma City Public Schools*, 871 P.2d 444 (Okla. App. 1994)

Whether school was on notice of dangerous condition of roof due to fact that superintendent knew that child had fallen from roof several months before and that electrical service violated safety codes was a question for the jury in personal injury action arising out of child's fall from roof due allegedly to touching of exposed electrical wire. *Juvenal v. Okeene Public Schools*, 878 P.2d 1026 (Okla. 1994)

Governmental Tort Claims Act does not prohibit the recovery of attorney fees and costs by prevailing party in action for negligent and willful damage to real property allowed recovery of attorney fees pursuant to 12 O.S. §940 in action brought under Governmental Tort Claims act. *Rout v. Crescent Public Works Authority*, 878 P.2d 1045(Okla. 1994)

School district had duty to use ordinary care to protect child, as a licensee, from defects or hidden dangers which were known, or should have been known, to school. *Brewer v. ISD No. 1*, 848 P.2d 566 (Okla. 1993)

Risk of falling from slide was not hidden danger about which school district had duty to warn children, as licensees, because slide was regularly encountered and appreciated. *Brewer v. ISD No. 1*, 848 P.2d 566 (Okla. 1993)

Due process clause is not violated when children are compelled to attend school, but school district's liability for children's accidents is limited under Political Subdivision Tort Claims Act. *Wilson v. Gipson*, 753 P.2d 1349 (Okla. 1988)

Officer or employee's willful or wanton negligence or conduct exceeds scope of employment; as such, officer or employee is not immune from tort liability. *Holman v. Wheeler*, 677 P.2d 645 (Okla. 1983)

School superintendent who allegedly spanked and beat a ten- year-old with unnecessary and excessive force place superintendent outside scope of employment and outside the protection of the Political Subdivision Tort Claims Act. *Holman v. Wheeler*, 677 P.2d 645 (Okla. 1983)

Pedestrian, who was struck by car in front of football stadium, failed to state cause of action in allegation that city and school were negligent in not providing patrol and guard service. Political Subdivision Tort Claims Act specifically exempts political subdivision from liability in failure to exercise discretionary functions; political

subdivision was not liable for loss resulting from failure to provide police protection. *Ochoa v. Taylor*, 635 P.2d 604 (Okla. 1981)

Section 562. Limitations on Liability.

A. The total liability of the state and its political subdivisions on claims within the scope of this act, Section 151 et seq. of this title, arising out of an accident or occurrence happening after the effective date of this act, Section 151 et seq. of this title, shall not exceed:

1. Twenty-five Thousand Dollars ($25,000.00) for any claim or to any claimant who has more than one claim for loss of property arising out of a single act, accident, or occurrence;

2. Except as otherwise provided in this paragraph, One Hundred Twenty-five Thousand Dollars ($125,000.00) to any claimant for his claim for any other loss arising out of a single act, accident, or occurrence. The limit of liability for the state or any city or county with a population of three hundred thousand (300,000) or more according to the latest federal Decennial Census shall not exceed One Hundred Seventy-five Thousand Dollars ($175.000.00). Except however, the limits of said liability for the University Hospitals and State Mental Health Hospitals operated by the Department of Mental Health and Substance Abuse Services for claims arising from medical negligence shall be Two Hundred Thousand Dollars ($200,000.00). For claims arising from medical negligence by any licensed physician, osteopathic physician or certified nurse-midwife rendering prenatal, delivery or infant care services from September 1, 1991, through June 30, 1996, pursuant to a contract authorized by subsection (b) of Section 1-106 of Title 63 of the Oklahoma Statutes and in conformity with the requirements of Section 3 of this act, the limits of said liability shall be Two Hundred Thousand Dollars ($200,000.00); or

3. One Million Dollars ($1,000,000.00) for any number of claims arising out of a single occurrence or accident.

B. No award for damages in an action or any claim against the state or a political subdivision shall include punitive or exemplary damages.

C. When the amount awarded to or settled upon multiple claimants exceeds the limitations of this section, any party may apply to the district court which has jurisdiction of the cause to apportion to each claimant his proper share of the total amount as limited herein. The share apportioned to each claimant shall be in the proportion that the ratio of the award or settlement made to him bears to the aggregate awards and settlements for all claims against the state or its political subdivisions arising out of the occurrence. When the amount of the aggregate losses presented by a single claimant exceeds the limits of paragraphs 1 or 2 of subsection A of this section, each person suffering a loss shall be entitled to his proportionate share.

D. The total liability of resident physicians and interns while participating in a graduate medical education program of the University of Oklahoma College of Medicine, its affiliated institutions and the Oklahoma College of Osteopathic Medicine and Surgery shall not exceed One Hundred Thousand Dollars ($100,000.00).

E. The state or a political subdivision may petition the court that all parties and actions arising out of a single accident or occurrence shall be joined as provided by law, and upon order of the court the proceedings upon good cause shown shall be continued for a reasonable time or until such joinder has been completed. The state or political subdivision shall be allowed to interplead in any action which may impose on it any duty or liability pursuant to this act.

F. The liability of the state or political subdivision under this act shall be several from that of any other person or entity, and the state or political subdivision shall only be liable for that percentage of total damages that corresponds to its percentage of total negligence. Nothing in this section shall be construed as increasing the liability limits imposed on the state or political subdivision under this act. **(51-154)**

State is immune from private enforcement of Fair Labor Standards Act because it has not consented to such a cause of action as is required by state law. *Freeman v. State ex rel. Dep't. of Human Services*, 2006 OK 71, 145 P.3d 1078

51 O.S. § 154 sets statutory limits as to amount of judgment under Governmental Tort Claims Act; thus post-judgment interest is not allowable if it would exceed statutory limit. *Pine v. State*, 913 P.2d 1375 (Okla. App. 1996)

School district's purchase of liability insurance did not act as a waiver to district's exemption from liability under Governmental Tort Claims Act, though district did waive immunity as to extent of coverage under policy. Policy clearly limited which risks were insured and limited coverage to liability imposed by law. *Brewer v. ISD No.1*, 848 P.2d 566 (Okla. 1993)

A political subdivision is still liable on an insured risk to extent of coverage under liability insurance, even though subdivision otherwise would be exempt under the Political Subdivision Tort Claims Act. *Herwig v. Board of Education of Lawton Public Schools*, 673 P.2d 154 (Okla. 1983)

Section 563. Exemptions from Liability.

The state or a political subdivision shall not be liable if a loss or claim results from:

1. Legislative functions;

2. Judicial, quasi-judicial, or prosecutorial functions, other than claims for wrongful criminal felony conviction resulting in imprisonment provided for in Section 154 of this title;

3. Execution or enforcement of the lawful orders of any court;

4. Adoption or enforcement of or failure to adopt or enforce a law, whether valid or invalid, including, but not limited to, any statute, charter provision, ordinance, resolution, rule, regulation or written policy;

5. Performance of or the failure to exercise or perform any act or service which is in the discretion of the state or political subdivision or its employees;

6. Civil disobedience, riot, insurrection or rebellion or the failure to provide, or the method of providing, police, law enforcement or fire protection;

7. Any claim based on the theory of attractive nuisance;

8. Snow or ice conditions or temporary or natural conditions on any public way or other public place due to weather conditions, unless the condition is affirmatively caused by the negligent act of the state or a political subdivision;

9. Entry upon any property where that entry is expressly or implied authorized by law;

10. Natural conditions of property of the state or political subdivision;

11. Assessment or collection of taxes or special assessments, license or registration fees, or other fees or charges imposed by law;

12. Licensing powers or functions including, but not limited to, the issuance, denial, suspension or revocation of or failure or refusal to issue, deny, suspend or revoke any permit, license, certificate, approval, order or similar authority;

13. Inspection powers or functions, including failure to make an inspection, review or approval, or making an inadequate or negligent inspection, review or approval of any property, real or personal, to determine whether the property complies with or violates any law or contains a hazard to health or safety, or fails to conform to a recognized standard;

14. Any loss to any person covered by any workers' compensation act or any employer's liability act;

15. Absence, condition, location or malfunction of any traffic or road sign, signal or warning device unless the absence, condition, location or malfunction is not corrected by the state or political subdivision responsible within a reasonable time after actual or constructive notice or the removal or destruction of such signs, signals or warning devices by third parties, action of weather elements or as a result of traffic collision except on failure of the state or political subdivision to correct the same within a reasonable time after actual or constructive notice. Nothing herein shall give rise to liability arising from the failure of the state or any political subdivision to initially place any of the

above signs, signals or warning devices. The signs, signals and warning devices referred to herein are those used in connection with hazards normally connected with the use of roadways or public ways and do not apply to the duty to warn of special defects such as excavations or roadway obstructions;

16. Any claim which is limited or barred by any other law;

17. Misrepresentation, if unintentional;

18. An act or omission of an independent contractor or consultant or his employees, agents, subcontractors or suppliers or of a person other than an employee of the state or political subdivision at the time the act or omission occurred;

19. Theft by a third person of money in the custody of an employee unless the loss was sustained because of the negligence or wrongful act or omission of the employee;

20. Participation in or practice for any interscholastic or other athletic contest sponsored or conducted by or on the property of the state or a political subdivision;

21. Participation in any activity approved by a local board of education and held within a building or on the grounds of the school district served by that local board of education before or after normal school hours or on weekends;

22. Any court-ordered or Department of Corrections approved work release program; provided, however, this provision shall not apply to claims from individuals not in the custody of the Department of Corrections based on accidents involving motor vehicles owned or operated by the Department of Corrections;

23. The activities of the National Guard, the militia or other military organization administered by the Military Department of the state when on duty pursuant to the lawful orders of competent authority:

a. in an effort to quell a riot,

b. in response to a natural disaster or military attack, or

c. if participating in a military mentor program ordered by the court;

24. Provision, equipping, operation or maintenance of any prison, jail or correctional facility, or injuries resulting from the parole or escape of a prisoner or injuries by a prisoner to any other prisoner; provided, however, this provision shall not apply to claims from individuals not in the custody of the Department of Corrections based on accidents involving motor vehicles owned or operated by the Department of Corrections;

25. Provision, equipping, operation or maintenance of any juvenile detention facility, or injuries resulting from the escape of a juvenile detainee, or injuries by a juvenile detainee to any other juvenile detainee;

26. Any claim or action based on the theory of manufacturer's products liability or breach of warranty, either expressed or implied;

27. Any claim or action based on the theory of indemnification or subrogation;

28. Any claim based upon an act or omission of an employee in the placement of children;

29. Acts or omissions done in conformance with then current recognized standards;

30. Maintenance of the state highway system or any portion thereof unless the claimant presents evidence which establishes either that the state failed to warn of the unsafe condition or that the loss would not have occurred but for a negligent affirmative act of the state;

31. Any confirmation of the existence or nonexistence of any effective financing statement on file in the office of the Secretary of State made in good faith by an employee of the office of the Secretary of State as required by the provisions of Section 1-9-320.6 of Title 12A of the Oklahoma Statutes;

32. Any court-ordered community sentence;

33. Remedial action and any subsequent related maintenance of property pursuant to and in compliance with an authorized environmental remediation program, order, or requirement of a federal or state environmental agency;

34. The use of necessary and reasonable force by a school district employee to control and discipline a student during the time the student is in attendance or in transit to and from the school, or any other function authorized by the school district; or

35. Actions taken in good faith by a school district employee for the out-of-school suspension of a student pursuant to applicable Oklahoma Statutes. **(51-155)**

Athletic exemption does not apply when student is not participating in, or practicing for, a *competitive* athletic event. *Hutts v. Western Heights Indep. Sch. Dist. No. I-41*, 2011 OK CIV APP 52.

Provision of GTCA that a political subdivision shall not be liable for a loss or claim that results from the method of providing, police, law enforcement or fire protection, did not provide immunity for city upon claim arising out of city police officer's alleged use of excessive force in executing arrest of student following fight on middle school premises, as officer was engaging in law enforcement activity, rather than protective services for student; officer grabbed student because she would not stop fighting, student did not summon officer to protect her, and there was no indication that student was seeking protection from officer. *Morales v. City of Oklahoma City*, 2010 OK 9.

A school district's decisions regarding the hiring, retention, and supervision of its superintendent are generally the kind of decisions that implicate policy concerns related to its educational mission. Absent any factual allegations that would take the school district's employment decisions regarding the superintendent outside of this rule, a claim against the school district for negligence in his hiring, supervision and retention is barred by the discretionary function exemption of 51 O.S. § 155(5). *Benedix v. Ind. School Dist. No. I-007 of Oklahoma County, Oklahoma*, 2009 WL 975145 (W.D.Okla.).

Maintenance of sewer lines was proprietary function of City, therefore it was not relieved from liability for failure to maintain sewer lines. *Spencer v. City of Bristow, 2007 OK CIV APP 62, 165 P.3d 361*

City was immune from liability for payment of attorneys' fees and costs in an annexation action that was successfully challenged by residents because annexation and de-annexation of territory by a municipality are legislative functions bestowed upon municipalities by the legislature. *In re: De-annexation of Certain Real Property from the City of Seminole, 2007 OK 95, 177 P.3d 551*

Political subdivision is immune from liability based on implied or noncontractual indemnity. The political subdivision is not immune from contractually incurred indemnity obligations. *The Estate of King v. Wagoner County Board of Commissioners*, 2006 OK CIV APP 118, 146 P.3d 833

Court held that discretionary function exemption applies to policy decisions, *Kruzhkov v. State of Oklahoma*, 2006 OK CIV APP 114, 114 P.3d 186

Officers and employees of government agencies, including the state, are protected from tort liability while performing discretionary functions, however, that protection does not render them immune from liability for acts of willful and wanton negligence. *Mullins v. Okla. Public Employees Ret. Sys., 2005* OK CIV APP 67, 122 P.3d 872

School district immunity for losses resulting from participation in or practice for any interscholastic or other athletic contest sponsored by or conducted on property of state or political subdivision did not bar student's suit against school district where student was not participating in or practicing for athletic contest at time he sustained injury, and instrumentality which caused his injury was not part of athletic contest and did not constitute a risk incidental to the contest. *Green v. Konawa Independent School Dist*., 2005 OK CIV APP 10, 105 P.3d 840

The exemption provided in Paragraph 14 is constitutional and is valid and enforceable. Such classification does not violate equal protection or due process. *Gladstone v. Bartlesville ISD No. 30*, 2003 OK 30, 66 P.3d 442.

Exemption for inspection powers or functions does not include maintenance of the property. A governmental landowner may be liable for negligent maintenance of property, irrespective of its inspection powers of functions. *Moran v. City of Del City*, 2003 OK 57, 77 P/3d 588.

Claim of negligent inspection is exempt from liability under §155(3). *Reynolds v. Union Public Schools*, 976 P.2d 557, 1998 OK CIV APP 101.

Decision about amount of security to have was discretionary act and thus exempted school district from liability. *Randell v. Tulsa Independent School Dist. No. 1*, 889 P.2d 1264, 1994 OK CIV APP 156.

School district was exempt from liability because it was exercising proper discretionary function in determining supervision during lunch period. *Franks v Union City Public Schools*, 1997 OK 105, 943 P.2d 611 (Okla. 1997)

School district was exempt from liability for injury to student which occurred while the student was participating in a wrestling match on school property during a physical education class. *Evans v. Oaks Mission Public School*, 1997 OK 97, 945 P.2d 492.

"Other" athletic contest referred to in §155(20) is an athletic contest different or distinct from an interscholastic contest between or among schools. *Curtis v. Board of Education of Sayre Public Schools*, 914 P.2d 656 (Okla. 1995)

Exemption for participation in athletics encompasses participation in or practice for any athletic or sports competition, whether interscholastic or not, sponsored by or on the property of the school and includes physical education softball class. *Curtis v. Board of Education of Sayre Public Schools*, 914 P.2d 656 (Okla. 1995)

Governmental Tort Claims Act exempts school district from liability for injury to child who fell from slide on theories of failure to inspect and attractive nuisance. Risk of falling from slide is regularly encountered and appreciated by children and is not a hidden danger about which the school district had a duty to warn. *Brewer v. ISD No.1*, 848 P.2d 566 (Okla. 1993)

Governmental Tort Claims Act affords no immunity or exemption from liability for retaliatory discharge under the Workers Compensation Act. *Gunn v. Consolidated Rural Water & Sewer District No. 1*, 839 P.2d 1345 (Okla. 1992)

Paragraph 20 provides immunity to school districts for claims resulting from participation in or practice for interscholastic or other athletic contests sponsored or conducted by or on the property of a school district despite student's claim that the injury resulted from school district's negligent hiring/retaining of coaches. *Hull v. Wellston ISD*, 2002 OK CIV APP 46, 46 P.3d 180

Vo-tech district sued by purchasers of new home for breach of implied warranty is not exempted from liability by Governmental Tort Claims Act. *Lucas v, Canadian Valley Area Vo-Tech*, 824 P.2d 1140 (Okla. App. 1992)

Governmental subdivision's liability for retaliatory discharge of employee for pursuing workers' compensation claim not exempted by Governmental Tort Claims Act. *Presson v. Kay County Board of Commissioners*, 806 P.2d 88 (Okla. App. 1991)

Exemptions from liability under the Political Subdivision Tort Claims Act are not exemptions to other provisions of the Act; persons with claims falling under those exemptions cannot pursue them without compliance with the Act. *Sanchez v. City of Sand Springs*, 789 P.2d 240 (Okla. 1990)

School districts' duties and powers are established by statute and do not include installation and maintenance of traffic control devices or measures, lighting, or police protection on public streets. *Ochoa v. Taylor*, 635 P.2d 604 (Okla. 1981)

Pedestrian, who was struck by car in front of football stadium, failed to state cause of action in allegation that city and school were negligent in not providing patrol and guard service. Political Subdivision Tort Claims Act specifically exempts political subdivision from liability in failure to exercise discretionary functions; political subdivision was not liable for loss resulting from failure to provide police protection. *Ochoa v. Taylor*, 635 P.2d 604 (Okla. 1981)

Action for wrongful termination in retaliation for filing a workers' compensation claim is a tort governed by the Governmental Tort Claims Act. *Mann v. City of Norman*, 782 P.2d 152 (Okla. App. 1989)

Employer's liability act in exemption does not include whistleblower, personnel, or discrimination acts. *October 5, 2000 (AG Op. No. 00-51)*

School District is not immune from liability for injury sustained on high school parking lot. *56 O.B.J. 1143.*

Section 564. Exemptions - Department of Transportation.

Nothing contained in this act shall be construed as allowing an action or recovery against the state or any of their officers or employees on a claim or cause of action founded upon any loss occurring from a defect or dangerous condition on any road, street or highway which was in existence, whether known or unknown:

1. On October 1, 1985; or

2. When an existing facility became or becomes a part of the state highway system; or

3. When an existing facility became or becomes the maintenance responsibility of the state, to the extent of that responsibility; provided that this section shall be effective until 12:01 a.m., October 1, 1995.

To the extent that the state is required by law to maintain a road, street, or highway within the territorial limits of a political subdivision, the political subdivision shall not be liable for any loss occurring from a defect or dangerous condition in the area required to be maintained by the state. **(51-155.1)**

Section 564.1. Liability Related to Computer Systems.

A. Except as provided in subsection C, D or E of this section, the state or any political subdivision of the state or an independent contractor of the state shall have no liability for losses from any failure or malfunction occurring before December 31, 2002, which is caused directly or indirectly by the failure of computer software or any device containing a computer processor to accurately or properly recognize, calculate, display, sort, or otherwise process dates or times.

B. Except as provided in subsection C, D or E of this section, no claim or cause of action, including, without limitation, any civil action or action for declaratory of injunctive relief, whether arising out of contract or arising independent of contract, may be brought against the state or any political subdivision of the state or against an independent contractor or an officer or employee of the state or a political subdivision on the basis that a computer or other information system that is owned or operated by any of those persons produced, calculated or generated an incorrect date or failed to accurately store, process, provide or receive data. Any contract entered into by or on behalf of and in the capacity of this state, an immune contractor or an officer or employee of the state or any of its agencies or political subdivisions must include a provision that provides immunity to those persons for any breach of contract that is caused by an incorrect date being produced, calculated or generated by a computer or computer system or caused a computer or computer system to fail to accurately store, process, provide or receive data that is owned or operated by any of those persons. Any contract subject to the provisions of this section that is entered into on or after July 1, 1999, has the legal effect of including the immunity required by this section, and any provision of the contract which is in conflict with this section is void. Notwithstanding any other provision herein, the provisions of this subsection shall not provide immunity from fulfilling a contract or relieve the state or any political subdivision of the state of its obligation to fulfill the terms of a contract or to provide services or make payments under the terms of the contract in a reasonable length of time.

C. A claim may be brought pursuant to the Governmental Tort Claims Act for negligence caused directly or indirectly by the failure of computer software or any device containing a computer processor to accurately or properly recognize, calculate, display, sort, or otherwise process dates or times, if the failure resulted in bodily injury or death.

D. Neither the state or any political subdivision of the state shall be immune from a claim or cause of action if remediation efforts were not begun by January 1, 1999.

E. Nothing in this section shall limit the liability of any individual or entity to the state or any political subdivision of the state, and contracts between the state or any political subdivision of the state and an independent contractor will not include a provision, express or implied, that grants the independent contractor immunity from liability to the state or any political subdivision of the state for any breach of contract that is caused by an incorrect date being produced, calculated or generated by a computer or computer system that is owned or operated by the independent contractor.

F. As used in this section:

1. "Independent contractor" means a defendant, as defined in Section 2 of this act, providing, pursuant to contract, a computer program or software, a computer system, or providing computer technical assistance to the state or a political subdivision of the state;

2. "Remediation efforts" means:

a. in the case of software, writing computer code to correct dates in data sensitive programs,

b. in the case of embedded chips or systems, testing the embedded systems or chips to determine if they are year 2000 compliant or assisting vendors in testing for such compliance, and

c. making necessary corrections to make the system compliant; and

3. "Computer system" means any electronic device or collection of devices, including support devices, networks and embedded chips, and excluding calculators that are not programmable, that contain computer programs or electronic instructions and that perform functions including logic, arithmetic, data processing, data storage and retrieval, communication or control**. (51-155.2)**

Section 565. Notice of Claims.

A. Any person having a claim against the state or a political subdivision within the scope of Section 151 et seq. of this title shall present a claim to the state or political subdivision for any appropriate relief including the award of money damages.

B. Except as provided in subsection H of this section, and not withstanding any other provision of law, claims against the state or a political subdivision are to be presented within one (1) year of the date the loss occurs. A claim against the state or a political subdivision shall be forever barred unless notice thereof is presented within one (1) year after the loss occurs.

C. A claim against the state shall be in writing and filed with the Office of the Risk Management Administrator of the Department of Central Services who shall immediately notify the Attorney General and the agency concerned and conduct a diligent investigation of the validity of the claim within the time specified for approval or denial of claims by Section 157 of this title. A claim may be filed by certified mail with return receipt requested. A claim which is mailed shall be considered filed upon receipt by the Office of the Risk Management Administrator.

D. A claim against a political subdivision shall be in writing and filed with the office of the clerk of the governing body.

E. The written notice of claim to the state or a political subdivision shall state the date, time, place and circumstances of the claim, the identity of the state agency or agencies involved, the amount of compensation or other relief demanded, the name, address and telephone number of the claimant, the name, address and telephone number of any agent authorized to settle the claim, and any and all other information required to meet the reporting requirements of the Medicare Secondary Payer Mandatory Reporting Provisions in Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007 (MMSEA) through the Centers for Medicare & Medicaid Services (CMS). Failure to state either the date, time, place and circumstances and amount of compensation demanded, or any information requested to comply with the reporting claims to CMS under MMSEA shall not invalidate the notice unless the claimant declines or refuses to furnish such information after demand by the state or political subdivision. The time for giving written notice of claim pursuant to the provisions of this section does not include the time during which the person injured is unable due to incapacitation from the injury to give such notice, not exceeding ninety (90) days of incapacity.

F. When the claim is one for death by wrongful act or omission, notice may be presented by the personal representative within one (1) year after the death occurs. If the person for whose death the claim is made has presented notice that would have been sufficient had he lived, an action for wrongful death may be brought without any additional notice.

G. Claims and suits against resident physicians or interns shall be made in accordance with the provisions of Titles 12 and 76 of the Oklahoma Statutes.

H. For purposes of claims based on wrongful felony conviction resulting in imprisonment provided for in Section 154 of this title, loss occurs on the date that the claimant receives a pardon based on actual innocence from the Governor or the date that the claimant receives judicial relief absolving the claimant of guilt based on actual innocence; provided, for persons whose basis for a claim occurred prior to the effective date of this act, the claim must be submitted within one (1) year after the effective date of this act. **(51-156)**

"Discovery rule", which allows limitations periods in tort cases to be tolled until the injured party knows, or in the exercise of reasonable diligence, should have known of the injury, applies to Oklahoma Governmental Tort Claims Act. *Lester v. Smith*, 2008 OK CIV APP 97, 198 P.3d 402.

If plaintiff files notice of claim which substantially complies with statutory requirements, plaintiff may not submit second notice of claim and thus extend time to file suit after claim is denied. *Strong v. Oklahoma City Public Schools,* 941 P.2d 538 (Okla. Civ. App. 1997)

Only a written notice of claim is sufficient to invoke the protections of the Governmental Tort Claims Act. A verbal communication does not substantially comply. *Minie v. Hudson,* 934 P.2d 1082 (Okla. 1997)

Claimant making claim against political subdivision pursuant to Oklahoma employment discrimination statutes, 25 O.S. 1101 et seq., is not required to comply with time limitations and notice provisions of Governmental Tort Claims Act. *Duncan v. City of Nichols Hills*, 913 P.2d 1303 (Okla. 1996)

Limitations period for a tort claim pursuant to Governmental Tort Claims Act is governed by § 156 B which requires notice of claim to be filed within one year of loss. *McGehee v. State Insurance Fund*, 904 P.2d 70 (Okla. 1995)

If claimant substantially complies with notice requirements of Governmental Tort Claims Act, claim will not be dismissed for invalid notice. Notice of claim must be presented within one year after loss in order for claim to be timely. *Mansell v. City of Lawton*, 901 P.2d 826 (Okla. 1995)

Claim against school district which was barred by statute of limitations due to student's failure to commence action within 180 days after denial of claim by school could not be revived by sending second notice to school within one-year period for filing of claim. *Grider v. ISD No. 89*, 872 P.2d 951 (Okla. App. 1994)

Governmental subdivision's request for additional information with respect to claim did not extend 90 day period within which to bring an action against it. *Sanchez v. City of Sand Spring*s, 789 P.2d 240 (Okla. 1990)

The purchase of insurance by a governmental subdivision does not dispense with the necessity to comply with procedures set forth in the Governmental Tort Claims Act for bringing claims against that governmental subdivision. *Gurley v. Memorial Hospital of Guymon*, 770 P.2d 573 (Okla. 1989)

The purposes of the notice provisions of the Political Subdivision Tort Claims Act are to foster political subdivision's interest by promoting prompt investigation, to provide opportunity to repair a dangerous condition, to encourage swift and amicable settlement of meritorious claims, and to prepare to meet financial liabilities. *Graves v. Rose*, 663 P.2d 733 (Okla. 1983)

Section 566. Approval or Denial of Claims.

A. A person may not initiate a suit against the state or a political subdivision unless the claim has been denied in whole or in part.

A claim is deemed denied if the state or political subdivision fails to approve the claim in its entirety within ninety (90) days, unless the state or political subdivision has denied the claim or reached a settlement with the claimant before the expiration of that period. If the state or a political subdivision approves or denies the claim in ninety (90) days or less, the state or political subdivision shall give notice within five (5) days of such action to the claimant at the address listed in the claim. If the state or political subdivision fails to give the notice required by this subsection, the period for commencement of an action in subsection B of this section shall not begin until the expiration of the ninety-day period for approval. The claimant and the state or political subdivision may continue attempts to settle a claim, however, settlement negotiations do not extend the date of denial unless agreed to in writing by the claimant and the state or political subdivision.

B. No action for any cause arising under this act, Section 151 et seq. of this title, shall be maintained unless valid notice has been given and the action is commenced within one hundred eighty (180) days after denial of the claim as set forth in this section. The claimant and the state or political subdivision may agree in writing to extend the time to commence an action for the purpose of continuing to attempt settlement of the claim except no such extension shall be for longer than two (2) years from the date of the loss. **(51-157)**

The time limits to file notice of a tort claim provided in the Governmental Tort Claims Act must be followed unless they are tolled by a written agreement of the parties or the conduct of the governmental entity or its agent. *Crockett v. Cent. Okla. Transp. & Parking Auth.*, 2010 OK CIV APP 30.

Because under the Governmental Tort Claims Act the right to sue does not attach until the claim has been denied, causes of action brought under the act do not accrue until that point. *Brown v. Creek County, 2007 OK 56, 164 P.3d 1073*

Time period in which school district was required to approve or deny claim was extended when school's insurance adjuster requested additional information from the plaintiff. *Davis v. Ind. School Dist. No. 89,* 2006 OK CIV APP 72, 136 P.3d 1059

Where insurance adjuster mailed a letter to the plaintiff requesting information and stating a certain date upon which a claim will be denied, then that date and not the statutory date of deemed denial governs when Plaintiff's time to file suit begins to run. *Corn v. Comanche County Memorial Hospital*, 2006 OK CIV APP 126, 147 P.3d 285

When school district's insurance agent wrote a letter requesting more information from a claimant, but stated that the investigation was not intended to waive time limitation imposed by the Oklahoma Governmental Tort Claims Act, the 90-day period after which the claim was deemed denied was not tolled. *Floyd v. Quinton Public Schools*, 438 F.Supp.2d 1318, (E.D. Okla. 2006)

If letter from governmental entity states effective date of denial which is beyond 90 day period for claim to be deemed denied, effective date in letter is considered as date of denial for purposes of calculating timeliness of filing of action. *Carswell v. Oklahoma State University*, 1999 OK 102, 995 P.2d 1118.

Statute authorizes an enlargement of the 90 day period for denial of a claim where the parties agree to such an extension in writing. Written correspondence between the parties may constitute such an extension agreement. *Vaughan v. City of Broken Arrow*, 1999 OK 47.

Statutory policy of exclusive liability requires compliance with the notice and statutory time constraints even when plaintiff seeks to pierce the shield of immunity by allegations of wilful and wanton conduct. Failure of compliance extinguishes the right to sue both the governmental entity and its employees. *Leding v. Pittsburgh County Dist. Court*, 928 P.2d 957 (Okla. App. 1996)

12 O.S. § 96 is not applicable to claims under the Governmental Tort Claims Act where the claim is not timely filed under the Act so as to invoke the court's jurisdiction. *Tyler v. Board of County Commissioners*, 915 P.2d 951 (Okla. App. 1996)

Claimant making claim against political subdivision pursuant to Oklahoma employment discrimination statutes, 25 O.S. 1101 et seq., is not required to comply with time limitations and notice provisions of Governmental Tort Claims Act. *Duncan v. City of Nichols Hills*, 913 P.2d 1303 (Okla. 1996)

Pursuant to 12 O.S. § 100, claimant may refile governmental tort claims action within one year from the date the original timely-filed governmental tort claims action failed or was dismissed other than on its merits. *State of Oklahoma v. Dixon*, 912 P.2d 842 (Okla. 1996)

Pursuant to 12 O.S. § 100, claimant may refile governmental tort claims action within one year from the date the original timely-filed governmental tort claims action failed or was dismissed other than on its merits. *Laidley v. McClain*, 912 P.2d 840 (Okla. 1996)

When a public entity requests more information after receiving an initial notice of claim and the claimant responds within a reasonable or a stated time, the claim must be given fresh consideration such that the 90-day bar must be treated as erased or arrested and will not begin to run until the claimant responds to the request for additional information. *Bivins v. State of Oklahoma ex rel. Oklahoma Memorial Hospital*, 917 P.2d 456 (Okla. 1996)

Where valid notice of a claim has been given and a governmental tort claim has been timely filed, the court's power is invoked. Thus, the savings statute, 12 O.S. § 100, is applicable, and a governmental tort claims action which is dismissed other than on the merits may be refiled according to 12 O.S. § 100. *Cruse v. Board of County Commissioners of Atoka County*, 910 P.2d 998 (Okla. 1995)

Claim against school district which was barred by statute of limitations due to student's failure to commence action within 180 days after denial of claim by school could not be revived by sending second notice to school within one-year period for filing of claim. *Grider v. ISD No. 89*, 872 P.2d 951 (Okla. App. 1994)

Statute allowing commencement of new action within one year of failure of first action other than on merits could not be applied to extend 180-day period after denial of notice of claim for filing suit against municipality after voluntary dismissal of prior timely action against municipality. *Robbins v. City of Del City,* 875 P.2d 1170 (Okla. App. 1994)

Statute allowing refiling of action dismissed otherwise than on merits within one year of dismissal does not operate to extend specific time limitations in Governmental Tort Claims Act, where special time limitations in Act limit right to bring action. *Gibson v. City of Tulsa*, 880 P.2d 429 (Okla. App. 1994)

Section 567. Settlement or Defense against Claim.

A. The state or a political subdivision, after conferring with authorized legal counsel, may settle or defend against a claim or suit brought against it or its employee under this act subject to any procedural requirements imposed by statute, ordinance, resolution or written policy, and may appropriate money for the payment of amounts agreed upon. When the amount of any settlement exceeds Twenty-five Thousand Dollars ($25,000.00), and any payment required by the settlement will not be paid through an applicable contract or policy of insurance, the settlement shall not be effective until approved by the district court and entered as a judgment as provided by law.

B. Any settlement payout pursuant to this section may be structured in any manner as agreed to by the parties involved.

C. If a policy or contract of liability insurance covering the state or political subdivision or its employees is applicable, the terms of the policy govern the rights and obligations of the state or political subdivision and the insurer with respect to the investigation, settlement, payment and defense of claims or suits against the state or political subdivision or its employees covered by the policy. However, the insurer may not enter into a settlement for an amount which exceeds the insurance coverage without the approval of the governing body of the state or political subdivision or its designated representative if the state or political subdivision is insured.

D. Nothing in this section shall be construed to repeal or modify Sections 361 through 365.6 and 435 of Title 62 of the Oklahoma Statutes and it is intended that this section be construed in conformance with those sections.

E. The state or a political subdivision shall not be liable for any costs, judgments or settlements paid through an applicable contract or policy of insurance but shall be entitled to set off those payments against liability arising from the same occurrence.

F. The state or a political subdivision shall have the right of subrogation against the insurer issuing any applicable contractor policy of insurance to the monetary limit of said policy of insurance or contract, if judgment or settlement of any claim arising pursuant to this act results in the imposition of monetary liability upon the state or the political subdivision.

G. Judgments, orders, and settlements of claims shall be open public records unless sealed by the court for good cause shown. **(51-158)**

Section 568. Payment of Judgment.

A. Judgments recovered against the state or political subdivisions under the provisions of this act shall be enforced in the same manner and to the same extent as judgments are now enforced against the state or political subdivisions under the law except as herein provided.

B. If the judgment is obtained against the state or a political subdivision that has procured a contract or policy of liability or indemnity insurance protection, the holder of the judgment may use the methods of collecting the judgment which are provided by the policy or contract or law to the extent of the limits of coverage provided.

C. For the payment of any judgment obtained under the provisions of this act against a political subdivision that is a self-insurer or not fully covered by liability insurance, the manner of paying a money judgment shall be as follows. Proof of indebtedness, as required in Sections 362 through 364 of Title 62 of the Oklahoma Statutes and evidence of any estimated tax levy or increases necessary to reimburse the sinking fund for the purposes of the judgment as provided in Section 431 of Title 62 of the Oklahoma Statutes, and other evidence or statements which the court may require, shall be made to the court before final judgment is rendered. As an alternative to paying the money judgment out of the sinking fund at the rate of one-third (⅓) each year, the court, based on consideration of evidence and proof, may provide for the judgment to be paid over a period of not less than one (1) nor more than ten (10) years. The interest rate on any judgment when payment is extended more than three (3) years shall be at the rate prescribed by law for the first three (3) years and at the rate of six percent (6%) for each remaining year.

D. Money judgments against the state not payable by insurance shall be paid in the following manner. An agency whose act or omission gave rise to the judgment may, at its discretion and upon approval of the Director of State Finance, pay a judgment or any portion thereof from any funds available to it. Provided, however, no agency shall be required to pay a judgment prior to the fiscal year next following the fiscal year in which the judgment is obtained. Any such judgment may be paid at a rate of one-third (⅓) per fiscal year from funds available for operation of the agency.

E. Nothing in this act shall be interpreted as allowing liens on public property. **(51-159)**

Section 569. Recovery of Payments from Employees.

The state or political subdivision shall have the right to recover from an employee for any claim or action under this act or any other claim or action any payments made by it for any judgment or settlement, or portion thereof, and costs or fees by or on behalf of an employee's defense if it is shown that the conduct of the employee which gave rise to the claim or action was outside the scope of his employment, or if the employee fails to cooperate in good faith in the defense of the claim or action. A judgment or settlement in an action or claim under this act shall constitute a complete bar to any action by the claimant against an employee whose conduct gave rise to the claim resulting in that judgment or settlement. Nothing in this act shall be construed to authorize the state or political subdivision to pay for any punitive or exemplary damages rendered against an employee. **(51-160)**

> Officer or employee's willful or wanton negligence or conduct exceeds scope of employment; as such, officer or employee is not immune from tort liability. *Holman v. Wheeler*, 677 P.2d 645 (Okla. 1993)
>
> School superintendent who allegedly spanked and beat a ten-year-old with unnecessary and excessive force placed superintendent outside scope of employment and outside the protection of the Political Subdivision Tort Claims Act. *Holman v. Wheeler*, 677 P.2d 645 (Okla. 1993)

Section 570. Payment of Judgment Against Employee and Legal Expenses.

A. The state or any political subdivision, subject to procedural requirements imposed by this section, other applicable statute, ordinance, resolution or written policy, shall:

1. Provide a defense for any employee as defined in Section 152 of this title when liability is sought for any violation of property rights or any rights, privileges or immunities secured by the Constitution or laws of the United States when alleged to have been committed by the employee while acting within the scope of employment;

2. Pay or cause to be paid any judgment entered in the courts of the United States, the State of Oklahoma or any other state against any employee or political subdivision or settlement agreed to by the political subdivision entered against any employee, and any costs or fees, for a violation of property rights or any rights, privileges or immunities secured by the Constitution or laws of the United States which occurred while the employee was acting within the scope of employment. The maximum aggregate amount of indemnification paid directly from funds of the state or any political subdivision to or on behalf of any employee pursuant to this section shall not exceed the maximum figures authorized by the provisions of Section 154 of this title, regardless of the number of persons who suffer damage, injury or death as a result of the occurrence, unless, in the case of a political subdivision, the political subdivision establishes higher limits by ordinance, if a municipality, or, as to other political subdivisions, by resolution, published as required by law; and

3. For any cause of action filed against an employee on or after January 1, 1990, post or cause to be posted any supersedeas or other bond ordered by the court.

B. 1. The state or a political subdivision shall not be required to indemnify any employee of the state or a political subdivision under the provisions of this section, unless the employee is judicially determined to be entitled to such indemnification and a final judgment therefor is entered. The exclusive means of recovering indemnification from the state shall be by filing an application for indemnification in the district court of the county where venue is proper as provided for in paragraph 2 of this subsection. The exclusive means of recovering indemnification from a political subdivision shall be by filing an application for indemnification in the trial court where the judgment was entered. If the federal trial court cannot hear the action, such application shall be filed in the district court of the county where the situs of the municipality is located. Actions to determine entitlement to indemnification shall be tried to the court, sitting without a jury.

2. Venue for actions to determine entitlement to indemnification from the state shall be in Oklahoma County, except that a constitutional state agency, board or commission may, upon a resolution being filed with the Secretary of State, designate another situs for venue in lieu of Oklahoma County.

3. All applications for indemnification from the state or a political subdivision shall be filed in the name of the real party or parties in interest, and in no event shall any application be presented nor recovery made under the right of subrogation. Indemnification from the state as provided for in this subsection shall extend only to acts or omissions

occurring on or after January 1, 1984. The employee of the state or a political subdivision must file an application for indemnification within thirty (30) days of final judgment, or the right to seek indemnification shall be lost forever.

4. In order to recover indemnification from the state or a political subdivision pursuant to this subsection, the court shall determine by a preponderance of the evidence that:

a. the employee reasonably cooperated in good faith in the defense of the action upon which the judgment or settlement was awarded and for which indemnification is sought;

b. the actions or omissions upon which such a judgment or settlement has been rendered were not the result of fraudulent conduct or corruption by the employee;

c. the employee, in committing the acts or omissions upon which a judgment or settlement has been rendered was acting in good faith and within any applicable written administrative policies known to the employee at the time of the omissions or acts alleged;

d. the employee was acting within the scope of employment at the time that the acts or omissions upon which a judgment or settlement has been rendered were committed by the employee;

e. the acts or omissions of the employee upon which a judgment or settlement has been rendered were not motivated by invidious discriminatory animus directed toward race, sex, or national origin; and

f. when punitive or exemplary damages are included in the total award rendered against the employee of a political subdivision, the indemnification amount sought for fees and costs does not include amounts attributable to the employee's defense against the punitive or exemplary damages in accordance with subsection D of this section.

5. a. Any indemnification judgment against the state under this section shall be an encumbrance against otherwise available unencumbered monies and unallocated unencumbered monies in the appropriations of the agency on whose behalf the employee to be indemnified was acting at the time of the act or omission upon which the judgment or settlement was awarded and for which indemnification was sought.

b. If sufficient unencumbered monies or unallocated unencumbered monies do not exist in the agency's appropriations to pay the indemnification, the agency shall make application to the Risk Management Division of the Office of Public Affairs for full payment of the indemnification out of the Tort Claims Liability Revolving Fund established pursuant to Section 85.35 of Title 74 of the Oklahoma Statutes. Payment out of this fund shall be authorized if there are sufficient monies greater than the sum total of the then pending fund indemnification judgment requests, and the reserves for future tort claims as certified by the Director of Risk Management.

c. If sufficient monies do not exist in the Tort Claims Liability Revolving Fund, the agency shall request the Legislature to make an appropriation sufficient to pay the indemnification.

d. Any indemnification judgment against a political subdivision shall be paid as provided in Sections 361 through 365.6 of Title 62 of the Oklahoma Statutes and Section 159 of this title.

C. The state or political subdivision shall have the right to recover from an employee the amount expended by the state or political subdivision to provide a defense, or pay a settlement agreed to by the employee and the state or political subdivision, or pay the final judgment, if it is shown that the employee's conduct which gave rise to the action was fraudulent or corrupt or if the employee fails to reasonably cooperate in good faith in defense of the action.

D. The state or a political subdivision shall not, under any circumstances, be responsible to pay or indemnify any employee for any punitive or exemplary damages rendered against the employee, nor to pay for any defense, judgment, settlement, costs, or fees which are paid or covered by any applicable policy or contract of insurance. Where any civil rights judgment upon which indemnification under subsection B of this section is applied for by an employee of the state includes an award for both actual and punitive or exemplary damages, the total amount of fees and costs for which indemnification may be allowed shall be limited to the percentage of fees and costs in the total award that the percentage of the award of actual damages bears to the total judgment awarded. It is the public policy of the State of Oklahoma that the state or a political subdivision may indemnify its employee for actual damages, fees, and costs as provided herein in any case in which the findings set out in paragraph B of this section have been determined.

E. Nothing in this section shall be construed to waive any immunities available to the state under the terms of the Eleventh Amendment to the Constitution of the United States. Any immunity or other bar to a civil lawsuit under state or federal law shall remain in effect. The fact that the state or a political subdivision may relieve an employee from all judgments, settlements, costs, or fees arising from the civil lawsuit shall not, under any circumstances, be communicated to any trier of fact in the case of any trial by jury. **(51-162)**

State agencies and political subdivisions do not have the discretion to choose to indemnify a public officer or employee against punitive or exemplary damages awarded in a civil rights lawsuit. *March 17, 1998 (AG Op. No. 98-4)* (statute amended after opinion rendered.)

Officer or employee's willful or wanton negligence or conduct exceeds scope of employment; as such, officer or employee is not immune from tort liability. *Holman v. Wheeler*, 677 P.2d 645 (Okla. 1993)

School superintendent who allegedly spanked and beat a ten-year-old with unnecessary and excessive force placed superintendent outside scope of employment and outside the protection of the Political Subdivision Tort Claims Act. *Holman v. Wheeler*, 677 P.2d 645 (Okla. 1993)

Section 571. Venue - Process - Proceedings.

A. Venue for actions against the state within the scope of this act shall be either the county in which the cause of action arose or Oklahoma County, except that a constitutional state agency, board or commission may, upon resolution filed with the Secretary of State, designate another situs for venue in lieu of Oklahoma County.

B. Actions against all political subdivisions within the scope of this act shall be brought in the county in which the situs of the political subdivision is located or in the county in which the cause of action arose.

C. Suits instituted pursuant to the provisions of this act shall name as defendant the state or the political subdivision against which liability is sought to be established. In no instance shall an employee of the state or political subdivision acting within the scope of his employment be named as defendant with the exception that suits based on the conduct of resident physicians and interns shall be made against the individual consistent with the provisions of Title 12 of the Oklahoma Statutes.

D. All actions against the state or political subdivision shall be filed in the name of the real party or parties in interest, and in no event shall any claim be presented nor recovery be made under the right of subrogation.

E. In all actions against the state, service shall be perfected by mailing, by certified mail, return receipt requested, a summons and a copy of the petition to the Attorney General. Claimant shall also mail, by certified mail, return receipt requested, a copy of the summons and a copy of the petition to the administrative head of the state agency or agencies involved and a copy of the summons and a copy of the petition to the Risk Management Administrator of the Purchasing Division of the Office of Public Affairs.

F. In suits against political subdivisions the petition and summons shall be served in the manner prescribed by law for civil cases generally. If no method is prescribed by law, then service may be had on the administrative head of the political subdivision being sued, if available, and if not, the court in which the suit is pending may authorize service in such manner as may be calculated to afford the political subdivision a fair opportunity to answer and defend the suit.

G. No attempt shall be made in the trial of any action brought against the state or any political subdivision or employee within the scope of this act to suggest the existence of any insurance which covers in whole or in part any judgment or award which may be rendered in favor of the plaintiff. **(51-163)**

Filing a tort claim against a government employee in his or her official capacity is improper because it is an attempt to impose liability on the governmental employer under the Governmental Tort Claims Act, which is dependent on the employee acting within the scope of his or her employment. *Simington v. Parker*, 2011 OK CIV APP 28.

Motion to vacate a Texas default judgment against an Oklahoma state university was properly transferred to the county that the Oklahoma Board of Regents had selected as its situs for venue. *Garrett v. Panhandle State University*, 2007 OK CIV APP 7

Section 572. Laws and Rules of Civil Procedure Applicable.

The laws and statues of the State of Oklahoma and the Rules of Civil Procedure, as promulgated and adopted by the Supreme Court of Oklahoma insofar as applicable and to the extent that such rules are not inconsistent with the provisions of this act, shall apply to and govern all actions brought under the provisions of this act. **(51-164)**

> The immunity afforded to state employees under the Tort Claims Act has a limited application to tort actions filed in state court, under state law, and does not impact an employee's potential liability, if any, which might arise under federal law, including the Civil Rights Act, at 42 U.S.C. Section 1983. *January 10, 1990 (AG Op. No. 89-75)*

> A political subdivision is still liable on an insured risk to extent of coverage under liability insurance, even though subdivision otherwise would be exempt under the Political Subdivision Tort Claims Act. *Herweg v. Board of Education of Lawton Public Schools*, 673 P.2d 154 (Okla. 1983)

Section 573. Act Not Applicable to Prior Torts.

This act does not apply to any claim against any political subdivision or employee arising before the effective date of this act. Any such claim may be presented and enforced to the same extent and subject to the same procedures and restrictions as if this act had not been adopted. **(51-165)**

Section 574. Act Applies to Both Governmental and Proprietary Functions.

The distinction existing between governmental functions and proprietary functions of political subdivisions shall not be affected by the provisions of this act; however the provisions of this act shall apply to both governmental and proprietary functions. **(51-166)**

Section 575. Repealed.

Section 576. Application of Law.

This act is exclusive and supersedes all home rule charter provisions and special laws on the same subject heretofore, and all acts or parts of acts in conflict herewith are repealed. **(51-170)**

Section 577. Existing Remedies - Causes of Action or Claims Not Affected.

Nothing in this act shall abrogate or amend in anyway presently existing remedies, causes of actions or claims presently existing on behalf of individuals or citizens. This act does not apply to any claim against the state or political subdivision arising before the effective date of this act. **(51-171)**

Section 578. Continuous School Program - Notice to State Superintendent.

All public school districts of any type or class are authorized to establish, maintain and operate their educational program under a continuous school program, to be conducted throughout the entire year.

The board of education of any school district may, after notification to the State Superintendent of Public Instruction, establish and operate in one or more of the schools within the district, or in all schools within the district, a continuous school program pursuant to the provisions of this act. **(70-4511)**

Section 579. Consultations - Assignments.

Prior to implementing a continuous school program in any school of the district, the school district's board of education shall consult in good faith in an effort to reach agreement with the employees of the school, with the parents of pupils who would be affected by the change, and with the community at large. Such consultation shall include at least one public hearing for which the board has given adequate notice to the employees and to the parents of the pupils affected.

In school districts where a continuous school program is implemented in fewer than all of the schools maintained by the school district, the board of education of such a school district shall make every reasonable effort to assign employees who prefer the regular school schedule to schools of the same level retaining the regular school schedule.

The board of education of any school district operating pursuant to the provisions of this chapter shall divide the students of each selected school into as many groups as necessary to adequately accommodate a continuous school program so established and conducted. Students of the same family shall be placed in the same group unless one or more of such students is enrolled in a special education class or unless the parent or guardian of such student requests that the students be placed in different groups. **(70-4515)**

Section 580. School Calendar.

The board of education of any school district operating pursuant to the provisions of this act shall establish a school calendar whereby the teaching sessions and vacation periods during the school year are on a rotating basis.

Each selected school shall be closed for all students and employees on regular school holidays.

The schools and classes shall be conducted for a total of no less than one hundred eighty (180) days or no less than one thousand eighty (1,080) hours during the academic year.

The provisions of all other laws relating to compulsory full-time education and the enrollment and attendance of pupils in the kindergarten, elementary and secondary grades shall be applicable with respect to the regular school days prescribed for the entire academic year established for the school at which a program pursuant to this act is conducted, and to the attendance area established for such school. **(70-4516)**

Section 581. Separate Salary Schedule - State Support.

The board of education of any school district operating the continuous school program pursuant to this act shall prescribe a separate salary schedule for the employees of the district who are employed at any school maintaining the continuous school program pursuant to this act, and who, because of such employment, will be engaged in rendering services for the district for a greater number of total days during the academic year than would be the case for a regular academic year.

Each school district maintaining a continuous school program in any school within the district pursuant to this act shall be entitled to receive the same support, but not more support, from the State Board of Education due to the average daily attendance at such school than it would have received if the school had been operating under the provisions of law relating to the regular school year as provided in Section 18-109 of Title 70 of the Oklahoma Statutes.

State aid shall not be increased to any district operating on a continuous school program; there shall be paid no amount greater than said district would have received if it were operating on a regular school year. **(70-4517)**

Section 582. Evaluation.

The State Superintendent of Public Instruction may require the submission of such reports and information as designated by the Department of Education to properly evaluate all programs established pursuant to this act. **(70-4518)**

Section 583. Developmental Research School Act.

This act shall be known and may be cited as the “Developmental Research School Act”. **(70-1210.571)**

Section 584. Purpose of Developmental Research Schools.

There is established a category of public elementary and secondary schools to be known as developmental research schools. The purpose of public developmental research schools is the improvement of education in high challenge schools by using resources of higher education, including research, demonstration, and evaluation regarding management, teaching, and learning. **(70-1210.572)**

Section 585. Intervention to Aid High Challenge School.

A developmental research school may be established by the State Board of Education only for purposes of intervening to aid a high challenge school as defined in Section 1210.541 of Title 70 of the Oklahoma Statutes. All developmental research schools shall be affiliated with a college of education within an institution of The Oklahoma State System of Higher Education and shall provide sequential instruction. Nothing in this act shall be construed to prohibit the establishment of a research and development school by an institution of higher education for voluntary and limited attendance. **(70-1210.573)**

Section 586. Notice and Opportunity to Appear.

If the State Department of Education plans to recommend the establishment of a developmental research school as a means of intervention with a high challenge school pursuant to Section 1210.541 if Title 70 of the Oklahoma Statutes, the Department shall notify, in writing, the board of education of the district involved. Upon receipt of the notification, the district board shall have fifteen (15) days to request an opportunity to appear before the State Board of Education. If the district board fails to request an opportunity to appear, the State Board shall proceed without further notice or delay to conclude the matter. If an opportunity to appear is requested by the district board, the State Board shall decide the issues after hearing from representatives of the district and the Department. **(70-1210.574)**

Section 587. Abolition of Existing Board of Education.

Upon intervention with a high challenge school and the subsequent establishment of a developmental research school by the State Board of Education, the board of education of the district in which the high challenge school was located shall be declared abolished by the State Board of Education. **(70-1210.575)**

Section 588. Creation of Succeeding Board of Education.

A. The board of education for a school district in which a developmental research school has been established pursuant to this act is hereby designated and shall consist of five (5) members as follows:

1. The president of the affiliated institution of higher education or designee;

2. The dean of the affiliated college of education or designee;

3. One faculty member from the affiliated higher education institution who is a parent of a student who attends the developmental research school and who is a resident of the community in which the school is located, to be appointed by the president of the affiliated higher education institution;

4. The regional accreditation officer for the State Board of Education for the region in which the developmental research school is located; and

5. One member appointed by the State Board of Education who is a parent or legal guardian of a student who attends the developmental research school.

B. The terms of the members of the board, except the president of the higher education institution, dean of the college of education of the higher education institution, and the regional accreditation officer, shall be staggered with the initial term of the faculty member appointed by the president of the higher education institution being five (5) years and the initial term of the member appointed by the State Board of Education being four (4) years. Upon expiration of the initial terms, the term of each appointed member shall be five (5) years. Vacancies shall be filled by the appointing authority.

C. The president of the affiliated higher education institution or the president's designee shall serve as president of the board. The board shall elect a vice president. **(70-1210.576)**

Section 589. Director - Chief Executive Officer.

A. A public developmental research school shall be headed by a director, selected by the president of the affiliated higher education institution and employed by the affiliated higher education institution. The director shall be the chief executive officer of the district in which the developmental research school is located. The director is not required to be a certified administrator and may be selected from the staff of the college of education of the affiliated higher education institution. The board of education for the district in which the developmental research school is located may reimburse the higher education institution for part of the director's salary.

B. Except as provided in this section, classroom teachers employed to teach in a public developmental research school shall be certified teachers pursuant to Section 6-101 et seq. of Title 70 of the Oklahoma Statutes. Higher education faculty employed by the affiliated higher education institution who are not certified teachers may serve simultaneously as instructional personnel for the public developmental research school and the higher education institution. No more than one-third of the teaching faculty of the research school may be higher education faculty who are not certified pursuant to Section 6-101 et seq. of Title 70 of the Oklahoma Statutes.

C. Persons participating in the Alternative Placement Program pursuant to Section 6-122.3 of Title 70 of the Oklahoma Statutes may be employed as teachers in a public developmental research school. **(70-1210.577)**

Section 590. Allocation and Expenditure of State Aid and Ad Valorem Taxes.

A. State Aid paid, pursuant to Section 18-101 et seq. of Title 70 of the Oklahoma Statutes, to a district in which a public developmental research school is established shall be allocated and expended only for operation of the developmental research school.

B. Ad valorem taxation revenues and dedicated revenues for the district in which a developmental research school is located shall be allocated and expended only for operation of the developmental research school. **(70-1210.578)**

Section 591. Promulgation of Rules by State Board of Education.

The State Board of Education shall promulgate rules necessary to implement this act. **(70-1210.579)**

Section 591.1. Oklahoma School of Science and Mathematics - Establishment - Board of Trustees - Terms - Vacancies - Budget Request.

A. A secondary school to be known as the Oklahoma School of Science and Mathematics is hereby established to be governed by a board of trustees as created in this section.

B. The Board of Trustees of the Oklahoma School of Science and Mathematics shall consist of twenty-five (25) members as follows:

1. Six ex officio nonvoting members as follows:

   a. The Chair of the Oklahoma State Regents for Higher Education or a designee;

   b. The Chancellor for Higher Education or a designee;

   c. The Superintendent of Public Instruction or a designee;

   d. The Dean of the College of Arts and Sciences of Oklahoma State University;

   e. The Dean of the College of Arts and Sciences of the University of Oklahoma; and

   f. The Dean of the College of Arts and Sciences of the University of Tulsa.

2. Seven members appointed by the President Pro Tempore of the Senate as follows:

a. A member of the Senate;

b. A superintendent of a public school district; and

c. Five persons, two of whom are either a scientist or a mathematician and three of whom hold a graduate degree and practice a profession for which a graduate degree is required.

3. Seven members appointed by the Speaker of the House of Representatives as follows:

a. A member of the House of Representatives;

b. A principal of a public secondary school; and

c. Five members who are either a scientist or a mathematician or hold a graduate degree and are currently employed in an occupation related to mathematics or one of the sciences.

4. Five members appointed by the Governor. Four of the members appointed by the Governor shall be business or industrial leaders. One member appointed by the Governor shall be a principal of a private secondary school in this state. One of the members shall be designated as Chair of the Board of Trustees by the Governor.

For purposes of this subsection:

a. "scientist" means any person who has a college degree in one of the sciences or is currently employed in an occupation related to one of the sciences; and

b. "mathematician" means any person who has a college degree in mathematics or is currently employed in an occupation related to mathematics.

C. 1. The terms of office of the members appointed by the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall coincide with the terms of the appointing authority.

2. The terms of office of the initial members appointed by the Governor shall be as follows:

a. Two members shall serve for a term of office of two (2) years;

b. Two members shall serve for a term of office of four (4) years; and

c. One member shall serve for a term of office of six (6) years.

At the expiration of the terms of office of the initial members appointed by the Governor, their successors shall be appointed for terms of office of six (6) years.

D. Vacancies in the office of an appointed member shall be filled for the unexpired term by the appointing authority making the original appointment. Except as prohibited by the Oklahoma Constitution, appointment to the board of Trustees shall not preclude any member from holding any other private or public position.

E. The Board of Trustees shall prepare a budget request for the Oklahoma School of Science and Mathematics and shall submit the budget request to the Legislature and the Governor by October 1 of each year. The Board of Trustees may accept gifts of real and personal property, money and other things, and use or dispose of the same in accordance with the directions of the donors or grantors thereof.

F. The Board of Trustees shall be authorized to purchase, own and acquire by lease or gift such motor vehicles as are reasonably necessary for the implementation of the programs of the Oklahoma School of Science and Mathematics. **(70-1210.401)**

Section 591.2. Oklahoma School of Science and Mathematics Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma School of Science and Mathematics, to be designated the "Oklahoma School of Science and Mathematics Revolving Fund". The Fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Board of Trustees of the Oklahoma School of Science and Mathematics, from all sources. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Board of Trustees of the Oklahoma School of Science and Mathematics for the purpose of developing the Oklahoma School of Science and Mathematics. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment. **(70-1210.402)**

Section 591.3. Oklahoma School of Science and Mathematics - Rules and Regulations - Preferential Hiring Policy.

A. The Board of Trustees of the Oklahoma School of Science and Mathematics shall have the authority to promulgate rules and regulations necessary to comply with the provisions of Section 1210.401 and 1210.402 of this title and any other requirements placed upon the Board of Trustees by law.

B. It is the intent of the Oklahoma Legislature that the Board of Trustees of the Oklahoma School of Science and Mathematics establish a hiring policy for the Oklahoma School of Science and Mathematics which provides that applicants for employment positions with the School who are residents of the State of Oklahoma shall be given priority for employment over applicants who are not residents of this state if all other qualifications are equal. **(70-1210.403)**

Section 591.4. Development of Pilot Projects.

A. The Oklahoma School of Science and Mathematics shall solicit proposals and award grants for pilot projects that develop and establish model programs implementing advanced science and math curriculum at local technology center school sites, local colleges or universities, or at local school sites via distance learning. At least two grants shall be awarded during the 1997-98 school year for implementation beginning the fall of 1997. The Oklahoma School of Science and Mathematics shall determine pilot project criteria. The pilot project proposals shall be considered on a statewide competitive basis.

B. A Selection Committee shall be established to assist the Oklahoma School of Science and Mathematics in selecting sites for model programs. The Selection Committee shall consist of the following members:

1. The Director of the Oklahoma Department of Career and Technology Education or a designee;

2. The Superintendent of Public Instruction or a designee; and

3. The Director of the Oklahoma School of Science and Mathematics or a designee.

C. An Advisory Council shall be established to assist the Oklahoma School of Science and Mathematics in development of the model programs. The Advisory Council shall establish eligibility criteria for student participation in the program. The Advisory Council shall have final approval of the curriculum and shall set academic standards for the program. The Advisory Council shall consist of the following members:

1. A superintendent of a participating local school district within the technology center school district elected by the majority of the participating superintendents or a designee;

2. The superintendent of a technology center school district participating in the program or a designee; and

3. The Director of the Oklahoma School of Science and Mathematics or a designee.

D. The Advisory Council and participating area technology center schools shall work with the Oklahoma School of Science and Mathematics in determining advanced science and math curriculum needs for the area served by the program. A representative from the Advisory Council and participating technology center school or participating local school site shall work with a representative from the Oklahoma School of Science and Mathematics in the recruitment

and hiring of faculty for the program. Faculty positions shall be approved by a majority vote of the representatives from the Advisory Council, technology center school and the Oklahoma School of Science and Mathematics.

E. The participating technology center school district shall provide transportation for those students attending the program at the technology center school site. Local schools at their option may provide transportation for students attending at college or university sites. **(70-1210.404)**

Section 592. Bond Issue Proceeds Act.

This act shall be known and may be cited as the "Bond Issue Proceeds Act". **(62-571)**

Section 593. Purpose.

The purpose of this act is to guarantee to the citizens of the State of Oklahoma that the proceeds of bond issues approved by them will be expended only for the purposes or projects for which any such bond issue was approved. **(62-572)**

Section 594. Definition.

As used in this act, unless the context requires otherwise, the term "government entity" means and includes the State of Oklahoma, any city, town, county, school district, other district of whatsoever nature or any other political subdivision. **(62-573)**

Section 595. Statement of Purposes and Projects - Expenditures.

A. At any election upon the question of issuing bonds, which if approved would require an ad valorem tax levy or pledging the full faith and credit of the State of Oklahoma, the governmental entity calling such election shall set forth in each proposition to be voted upon the general purpose for which the bond proceeds will be expended. This shall not require the proposition or the bond to recite specific projects and dollar amounts.

B. At any election upon the question of issuing bonds, which if approved would require an ad valorem tax levy or pledging the full faith and credit of the State of Oklahoma, the governmental entity calling such election shall set forth in the call of election, in a legally qualified newspaper of general circulation in the area wherein said bond issue proceeds are to be expended, a general statement of all purposes and specific projects for which seventy percent (70%) of the proceeds shall be expended, with a further listing of the dollar amounts to be expended on each specific project. The dollar figure left unlisted as to specific projects shall not exceed thirty percent (30%) of the total amount of the bond issue.

C. If any such bond issue is approved at an election, the particular governmental entity shall expend all of the proceeds of such bond issue for the purposes set out in the proposition voted upon and shall expend not less than eighty-five percent (85%) of the monies allocated to each specific project, unless such project can be completed for a smaller amount of money, on that project as published according to Section 4(B) of this act and for which the bond issue was approved. Provided, however, that if any money becomes available from any source outside the bond proceeds for any specific project, the outside funds would be used to reduce the amount of bond funds to be expended on that specific project. In such event, the governmental entity may expend that amount less than the specified eighty-five percent (85%) and may use the surplus funds on other projects within the same general purpose or to reduce the sinking fund. This section shall not apply in the event a final judicial determination or federal or state laws, regulations or rules preclude the undertaking or completion of a specific project. **(62-574)**

> Issuance and sale of bonds would not be enjoined, even though officials improperly expended funds to promote bond election, where election contestant failed to show any evidence that efforts swayed voter opinion succeeded or that outcome of election would have been different had effort not been made. *Quinn v. City of Tulsa*, 777 P.2d 1331 (Okla. 1989)

Section 596. Penalty.

Any member of the governing body of a governmental entity or other elected or appointed official charged with the duty of expending the proceeds of any bond issue, who knowingly and willfully violates any provision of this act, shall forfeit his office. **(62-575)**

Section 597. Act Not Applicable to Certain Bond Issues.

The provisions of this act shall not apply to any bond issue approved by the qualified electors of any governmental entity prior to the effective date of this act nor to any bond or bonds issued pursuant to Article 10, Section 35 of the Oklahoma Constitution. **(62-576)**

Section 598. Validity of Bonds.

Nothing contained herein shall affect the validity or enforceability of such bonds, once sold pursuant to law, regardless of actions by the governmental entity subsequent to sale. **(62-577)**

Section 599. Authority For Bond - Fiscal Year Limits.

(a) Except as herein otherwise provided, no county, city, town, township, school district, or other political corporation, or subdivision of the State, shall be allowed to become indebted, in any manner, or for any purpose, to an amount exceeding, in any year, the income and revenue provided for such year without the assent of three-fifths of the voters thereof, voting at an election, to be held for that purpose, nor, in cases requiring such assent, shall any indebtedness be allowed to be incurred to an amount, including existing indebtedness, in the aggregate exceeding five percent (5%) of the valuation of the taxable property therein, to be ascertained from the last assessment for State and county purposes previous to the incurring of such indebtedness: Provided, that if a school district has an absolute need therefor, such district may, with the assent of three-fifths of the voters thereof voting at an election to be held for that purpose, incur indebtedness to an amount, including existing indebtedness, in the aggregate exceeding five percent (5%) but not exceeding ten percent (10%) of the valuation of the taxable property therein, to be ascertained from the last assessment for state and county purposes previous to the incurring of such indebtedness, for the purposes of acquiring or improving school sites, constructing, repairing, remodeling or equipping buildings, or acquiring school furniture, fixtures or equipment; and such assent to such indebtedness shall be deemed to be a sufficient showing of such absolute need, unless otherwise provided by law. * * * Provided further, that any county, city, town, school district, or other political corporation, or subdivision of the state, incurring any indebtedness requiring the assent of the voters as aforesaid, shall, before or at the time of doing so, provide for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof within twenty-five (25) years from the time of contracting the same, and provided further that nothing in this section shall prevent, under such conditions and limitations as shall be prescribed by law, any school district from contracting with:

(1) certificated personnel for periods extending one (1) year beyond the current fiscal year; or

(2) a school superintendent for periods extending more than one (1) year, but not to exceed three (3) years beyond the current fiscal year. * * * * * **(Article X, § 26, Okla. Const.)**

Note: See Section 55 for provisions regarding multi-year contracts for Superintendents.

A school district may not lawfully use proceeds of general obligation bonds to make an installment under a lease purchase agreement where the principal amount of the transaction is increased in lieu of interest, i.e., the lease includes no component for interest, but the principal amount is increased to compensate the lessor. A school district cannot do indirectly what it is prohibited from doing directly and such a structure would violate Okla. Const. art. X, § 26. *December 19, 2007 (AG Op. No. 07-42)*

The Oklahoma Constitution prohibits limitation of liability clauses in all state contracts, whether for goods or services, unless at the time the contract is executed funds have been appropriated and encumbered to pay for any contingent liability which might arise. Further, a limitation of liability clause which creates an unfunded contingent liability is void as against public policy. *April 14, 2006, (AG Op. No. 06-11)*.

Oklahoma school districts lack the legal authority to enter into "swap or derivative financial product" agreements, as that power is beyond that necessary or implied to carry out the powers expressly granted to school districts. *November 28, 2005 (AG Op. No 05-43)*

Const. X §26 and 70 O.S. 5-117 Nonappropriation addenda purporting to extend contract beyond current fiscal year is not sufficient to ratify or confirm renewal or extension for lease of photocopiers. District not liable for any payments owed or unpaid where unratified. Where school district accepted benefits of use of copier and vendor accepted payment, the parties mutually confirmed contract extensions. *GE Capital Information Technology Solutions v. OKCPS, 2007 OK CIV APP 117*

Not every contract entered into by a municipality qualified as a §26 debt. Contract with auditor, especially when funds are shown to be available to pay for services rendered, does not qualify as a §26 debt. *Fleming & Gandall, PLLC v. Town of Cashion, 2007 OK CIV APP 74, 167 P.3d 975*

A debt is a promise to pay a certain amount, with interest, within a fixed time out of taxes collected. Where contract allowed for reduction of amount owed to school district based on amount of state aid collected for number of students, such reduction was not a debt for purposes of constitutional debt limitation. *Southern Corrections Systems, Inc. v. Union City Public Schools*, 2002 OK 93, 64 P.3d 1083.

Recovering an overpayment of state aid does not impose the type of obligation prohibited by the constitutional debt limitations. *ISD No. 20 of Muskogee County v. Okla. State Dept. of Education*, 2003 OK 18, 65 P.3d 612.

Contract between engineers and city which has a contingent debt violates Art. X, §26 because it creates an obligation in one fiscal year which results in a debt in a succeeding fiscal year. *Wyatt-Doyle & Butler Engineers, Inc. v. City of Eufaula*, 13 P.3d 474, 2000 OK 74.

Debt is incurred when bonds are voted on, issued, approved, and delivered; voters may authorize an amount of bonded indebtedness in excess of 10% of assessed valuation but bonded indebtedness may only be incurred up to constitutional limit. *April 5, 2002 (AG Op. No. 02-14)*

Contract which contains an exculpatory or indemnity provision violates constitutional provision regarding creation of debt unless funds have been appropriated to cover the obligation at the time the contract was made. *January 26, 2001 (AG Op. No. 01-2)*

School district may not use current year monies to fund payments to employees for unpaid benefits under the Flexible Benefits Allowance Act which accrued in prior fiscal year. *May 22, 2000 (AG Op. No. 00-29)*

Early retirement incentive plan which was ratified annually by board of education did not violate constitutional fiscal year limitations. *Matter of Tax Protest of Steve Beebe*, 1999 OK CIV APP 69, 986 P.2d 525

Fiscal year limitations prevent school district from entering into agreements for periods in excess of one fiscal year unless three-fifths of voters of school district approve. School district may enter into lease for one fiscal year or less with an option to renew in future years to be exercised at the discretion of the school district. *November 10, 1999 (AG Op. No. 99-73)*

Fiscal year limitations do not apply to state's obligation to recoup overpayment of state aid through reductions of future state aid and does not prevent State Department of Education from such recoupment. *July 20, 1999 (AG Op. No. 99-36)*

An interest-free loan to a municipality which is forgiven in certain amounts until completion of a 10 year contract is a debt that is prohibited by Article X, § 26 of the Oklahoma Constitution regardless of the fact that the municipality may never have to repay the balance. At the time the agreement is created, it creates an indebtedness that is to be repaid beyond the current fiscal year. *June 30, 1997 (AG Op. No. 97-47)*

If school district refuses to make payment owed to county assessor for revaluation expense, county assessor may bring mandamus action during fiscal year to compel school district to include the expense in its budget and to compel it to make immediate payment. Once fiscal year in which expense was incurred has ended, county assessor must obtain a judgment for the expense in order to compel school district to budget expense and pay such judgment. *Clay v. ISD No. 1 of Tulsa Co.*, 935 P.2d 294 (Okla. 1997)

Contract of city manager which straddled two fiscal years violated Article X, § 26. There was no exception for city manager as for teachers. *City of Bixby v. State ex rel. Dept. of Labor*, 934 P.2d 364 (Okla. App. 1996)

The issuance of refunding bonds concurrent with the cancellation or retirement of outstanding obligations without approval of the electorate does not violate Art. X Sec. 26 of the Oklahoma Constitution. The issuance of refunding bonds and the placement of the proceeds thereof in escrow for the retirement of the outstanding obligations at a later date, otherwise known as "advanced refunding," does not violate Art. X., Sec. 26 subject to the specific constraints. *December 10, 1985 (AG Op. No. 85-184)*

Constitution bars claim against school district for utility service attributable to previous fiscal year. *May 14, 1981 (AG Op. No. 81-51)*

Constitution prohibits contract of employment to have effect beyond fiscal year immediately following current fiscal year in which decision to reemploy is made or taken effect by operation of law. *November 6, 1980 (AG Op. No. 80-272)*

Bonds may be issued for more specific purposes than those enumerated in Constitution, provided special purpose falls within general purpose set out in Constitution. *March 5, 1976 (AG Op. No. 76-145)*

Contract seeking to bind school district's revenues to succeeding fiscal year is void. *ISD No. 1 v. Howard*, 336 P.2d 1097 (Okla. 1959)

Debt limit of five percent can be exceeded for purchase of transportation equipment. *Dependent School District No. 13 v. Williamson*, 325 P.2d 1045 (Okla. 1958)

Proceeds of bonds issued to erect school building, improve school site and purchase equipment may be used to purchase building and move it to another site and equip it for a gymnasium. *June 28, 1957*

Constitutional provision which limits school district's indebtedness at five percent of its assessed valuation is a limitation on incurring of new indebtedness but is not a limitation to annexing district's absorbing of assets and liabilities of annexed territory. *ISD No. 1 v. Williamson*, 262 P.2d 701 (Okla. 1953)

Section 600. Bond Commissioner.

The Attorney General is hereby made exofficio Bond Commissioner of the State of Oklahoma. **(62-11)**

Section 601. Forms and Procedure - Certificate.

It shall be the duty of the Bond Commissioner to prepare uniform forms and prescribe a method of procedure under the laws of the state in all cases where it is desired to issue public securities or bonds, in any county, township, municipality or political or other subdivisions thereof of the State of Oklahoma; and it shall be the further duty of said Bond Commissioner to examine into and pass upon any security so issued, and such security, when declared by the certificate of said Bond Commissioner to be issued in accordance with the forms of procedure so provided shall be incontestable in any court in the State of Oklahoma unless suit thereon shall be brought in a court having jurisdiction of the same within thirty (30) days from the date of the approval thereof by the Bond Commissioner. **(62-13)**

Taxpayers can contest bond election either before bond commissioner approves issuance of bonds or within 30 days of bond commissioner's approval. *Dean v. Wes Watkins Area Vocational Technical Sch. Dist.*, 782 P.2d 116 (Okla. 1989)

Section 602. Bond Invalid Without Certificate.

No bond hereafter issued by any political or municipal subdivision of this State shall be valid without the certificate of said Bond Commissioner. **(62-14)**

Section 602.1. Issuance of Bonds: Attorney General's Duties.

A. In all stages of proceedings leading to the issuance and sale of general obligation bonds pledging the full faith and credit of the state, it shall be a duty of the Attorney General to perform all necessary legal work incident thereto. Neither the Attorney General nor any other officer of the state may use any public funds to pay for the services of a private attorney or consulting fee in connection with such work. Neither the Attorney General nor Assistant Attorney General shall receive any remuneration, other than salary, for legal services performed in proceedings leading to the issuance and sale of bonds as provided in this act. If a marketing opinion is desired, the bond buyers shall pay for its procurement.

B. In all proceedings leading to the issuance and sale of revenue bonds by any state agency acting pursuant to a specific legislative validating act, a private attorney or attorneys may be employed when the legislative validating act does not prohibit such employment. The employment contract with the private attorney or attorneys shall be filed of record with the Attorney General. In no case shall the employed private attorney be paid a fee in excess of that authorized in the validating act. In addition, the Attorney General is authorized to charge an examination fee for review and approval of revenue bond or note proceedings, as provided for in subsection E of this section. If a marketing opinion is desired, the bond buyers shall pay for its procurement.

C. In all proceedings leading to the issuance and sale of general obligation bonds or revenue bonds by any state agency acting pursuant to a specific legislative validating act, any financial or marketing consultant employed by the

state for services relative to the marketing of such bonds shall not be paid a fee in excess of that authorized in the validating act.

D. Except for the provisions of subsection E of this section, nothing herein shall apply to legal proceedings leading to the issuance or sale of bonds pursuant to Article X, Sections 26, 27 and 35 of the Oklahoma Constitution or to any obligation issued by public trusts under the Public Trust Act (except those trusts created by the state as contrasted to its subdivisions or other governmental entities), the Interlocal Cooperation Act and the Local Industrial Development Act.

E. In all proceedings leading to the issuance and sale of revenue bonds or notes by any state agency, or the issuance and sale of general or limited obligation bonds pledging the faith and credit, whether general or special, of the state or any political subdivision thereof, where the Attorney General is required by law to review such proceedings, the Attorney General is authorized to charge and collect a nonrefundable examination fee, payable at the time the proceedings are finally approved and bonds or notes are delivered. The issuer may reimburse itself for the examination fee from the proceeds of the bond or note issue. Such examination fee shall not exceed the following amounts:

1. Three one-hundredths of one percent (0.03%) of the first Five Million Dollars ($5,000,000.00) of the principal amount of bonds or notes issued; and

2. Two one-hundredths of one percent (0.02%) of any principal amount of bonds or notes issued in excess of Five Million Dollars ($5,000,000.00), up to and including Fifty Million Dollars ($50,000,000.00); and

3. One one-hundredth of one percent (0.01%) of any principal amount of bonds or notes in excess of Fifty Million Dollars ($50,000,000.00).

All fees collected as authorized by this subsection shall be deposited in the Attorney General's Revolving Fund created in Section 20 of Title 74 of the Oklahoma Statutes. **(62-15)**

Section 603. Approval of Bonds.

No bond or evidence of indebtedness of this State shall be valid unless the same shall have endorsed thereon a certificate, signed by the Auditor and Attorney General of the State, showing that the bond or evidence of debt is issued pursuant to law and is within the debt limit. No bond or evidence of debt of any county, or bond of any township or any other political subdivision of any county, shall be valid unless the same have endorsed thereon a certificate signed by the County Clerk, or other officer authorized by law to sign such certificate, and the County Attorney of the county, stating that said bond, or evidence of debt, is issued pursuant to law, and that said issue is within the debt limit. **(Article 10, § 29, Okla. Const.)**

Section 604. Bonds - Maturity - Installments - Contract.

A. Except as provided for in subsection B of this section, whenever any municipal corporation or political subdivision of this state shall vote any bonds or issue any funding or refunding bonds, such bonds, or combined issue of bonds referred to in Section 354 of this title shall be made to mature in equal annual installments, beginning not less than two (2) nor more than five (5) years after their date, except that the first maturing installment may be for such sum, not more than one installment and the last maturing installment may be for such sum not more than two installments, as will complete the full issue of such bonds notwithstanding the necessity of varying the amount thereof to complete the same.

B. 1. Whenever any municipal corporation or political subdivision of this state shall vote any bonds or issue any funding or refunding bonds, such bonds, or combined issue of bonds referred to in Section 354 of this title, may be made to mature pursuant to a schedule of annual installments which allows the bonds to be structured with level debt service payments. Such bonds shall mature beginning not less than two (2) years nor more than five (5) years after their date.

2. For purposes of this subsection:

a. "level debt service" means that net total annual or fiscal debt service, except for short or stub periods, must be approximately equal for every annual or fiscal period, provided that all net annual or fiscal payments must be within a dollar amount range not to exceed the greater of two-tenths of one percent (0.2%) of the bond issue or twice the stated denomination of the bonds, and

b. "short or stub periods" means the period preceding the beginning of full amortization of principal and payment of interest.

C. For purposes of subsections A and B of this section, a mandatory sinking fund redemption amount shall be deemed to be a maturity or maturing installment.

D. The denomination of bonds issued pursuant to the provisions of this section shall be One Thousand Dollars ($1,000.00) or multiples thereof, except the first numbered bond may be for such odd amount as will complete the full issue of the bonds. Provided, when a book entry system is utilized, the issuer may issue and deliver one bond only, for the entire principal amount of each maturity or of the entire issue, to the book entry agent. **(62-353)**

Section 605. Municipal Corporations - Sale of Bonds - Notice - Bids.

A. Whenever any municipal corporation or political subdivision of the State of Oklahoma shall by separate propositions vote bonds for two or more purposes, the governing body thereof may combine and offer for sale in one issue of bonds all of the purposes so voted, and shall set out in the ordinance or resolution providing for the issuance of the bonds and in the printed bond for the combined purposes the amount authorized to be expended for each purpose as set out in each proposition submitted and approved by the electors, and the bonds may be designated general obligation bonds or as may be determined by the governing board of the municipal corporation or political subdivision.

B. When one or more issues of bonds, including a combined bond issue referred to herein, except funding or refunding bonds, shall be made or ordered by any county, city, town, board of education, school district, or other political subdivision of the state, the proper officers shall, before selling such bonds cause at least ten (10) days' notice to be given of the time and place when and where bids therefor will be received and the methods by which bids may be submitted, which, in the discretion of the governing body, may be by sealed bid, facsimile bid, electronic mail bid or other bidding method. Such notice shall be signed by the county clerk if issued by a county, and by the clerk of any city, town, board of education, school district, or other subdivision of the state, as the case may be, and shall be published once a week for two (2) consecutive weeks in a legally-qualified newspaper published in such political subdivision and if there be no such newspaper then in a legally-qualified newspaper of general circulation in such political subdivision. The date mentioned in such notice for the sale of such bonds shall not be less than ten (10) days after the first publication thereof. In the event a municipal corporation or political subdivision has by separate propositions voted bonds for two or more purposes, the proper officers shall set out in such notice of sale whether bids will be received for a combined bond issue for all of such purposes as one unit, or bids will be received for separate bond issues for each purpose.

C. All bonds shall be sold to the bidder who shall stipulate in the bid the lowest interest cost which such bonds shall bear which, at the option of the governing body, may be determined based on true interest cost. Upon the acceptance of such bid, the bonds shall be issued in accordance therewith and shall be delivered to the purchaser upon payment of the purchase price thereof. Each bidder shall submit with the bid a sum in cash, cashier's check, surety bond or similar security undertaking as stipulated by the governing body, equal to two percent (2%) of the principal amount of the bond issue, and upon the acceptance of any bid, such deposit shall become the property of the county, or municipality selling the bonds, and shall be accredited on the purchase price thereof, upon the understanding that if the purchaser shall fail for five (5) days after tender of the bonds to pay the balance of the purchase price, the sale shall be thereby annulled and the deposit shall in such event be retained by the governing body of such county or municipality and credited to the account for which such bonds are being issued and shall be used accordingly. No tender of the bonds shall be valid until after the expiration of the period of contestability, as provided by law. All other deposits shall be returned. The governing body, selling such bonds, shall have the right to reject all bids and readvertise the bonds for sale. No funding or refunding bonds issued hereunder shall bear a higher rate of interest than the indebtedness which is funded or refunded.

D. The provisions of Section 351 et seq. of this title shall not apply to sale of bonds issued by a vote of the people to the United States Government, or any agency thereof, and the governing board of a municipal corporation or political subdivision of the state is hereby authorized to sell such bonds to the United States Government or any agency thereof

at a private sale for a sum of not less than par with accrued interest added, and the governing board shall fix the rate of interest which such bonds shall bear which shall not be a larger rate of interest than that authorized by the electors voting at the bond election. **(62-354)**

> Under constitution, municipal corporation has no authority to contract indebtedness payable out of a fund before the fund is provided. Municipality may lawfully contract indebtedness payable from bond fund only when the bond issue arises from exchange for liability upon bonds. Municipal bonds are "issued" when control and possession pass from the municipality to purchaser or person in whose hands they become a claim against the municipality; furthermore, though authorized and executed, bonds do not become obligatory and operative until delivered. *McMasters v. Town of Byars*, 223 P.2d 545 (Okla. 1950)

Section 606. Bidders - Persons Forbidden to Bid on Bonds.

No person, firm or corporation, who shall represent the county, city, town, board of education, school district, or other subdivision of the State of Oklahoma, in the preparation or handling of such bond issue, or the proceedings incident thereto, in any manner, shall be permitted to bid for or become the purchaser of such bonds upon sale thereof, or be interested in any bid submitted at the sale of said bonds, and no bidder shall be interested in any proceedings contract. **(62-355)**

Section 607. Bonds - Permission to Sell - Manner of Sale.

The governing board of any county, city, town, school district, township, and other municipal subdivisions of this state is hereby permitted to sell bonds heretofore and hereafter voted upon and authorized by a vote of the qualified electors of the respective municipalities in such amounts as the governing board of said municipalities may deem necessary and proper. The sale of said bonds shall be in the manner now provided by law. **(62-356)**

Section 608. Signing and Attestation of Bonds - Certificates.

All general obligation bonds including funding and refunding bonds issued by a county, city, town, township, board of education or school district shall be signed by the chief officer of such municipality or political subdivision attested by the clerk. Facsimile signatures may be used as provided in the Registered Public Obligations Act of Oklahoma. There shall be endorsed thereon a certificate signed by the district attorney and county clerk of the county in which such issuing municipality or political subdivision is located that said bonds or evidence of debts are issued pursuant to law and that said issue is within the debt limit. There shall be contained on each of said bonds a certificate of the treasurer of the issuing municipality or political subdivision that he registered the said bonds. **(62-358)**

Section 609. Bond Issued - Payment of Expenses.

The governing board of any county, city, town, school district or any other political subdivision of the state is hereby authorized to pay all expenses incident to the issuance of any general obligation bonds, including fees for legal or other assistance in the preparation of proceedings therefor, same to be paid from the proceeds of such bonds, or from any other monies legally available. (**62-359)**

Section 610. Sinking Fund - Computation.

It shall be the duty of every county, city, town, township, the board of education of any city, and of every school district, issuing bonds under this article, and of the proper officers thereof, to create a sinking fund; and there shall be levied by the proper officers, annually, a sufficient tax therefor for the redemption of such bonds, which shall be collected as other taxes, and paid into the treasury as provided by law for other taxes, and shall remain as a specific fund for the redemption of said bonds; and amount of which sinking fund shall be as follows: In every instance in which bonds shall be issued under this article, for twenty (20) years or less, the quotient found by dividing the amount of the principal of such bonds by such number of years shall be the amount of sinking fund to be levied each year for the redemption of such bonds; but in every instance in which such bonds shall be issued for more than twenty (20) years, it shall not be necessary to create a sinking fund, or to levy a tax therefor, until the twentieth year prior to maturity of such bonds, at which time, and each year thereafter one-twentieth (½0) of the principal amount of such bonds shall be levied as a sinking fund for the redemption of such bonds: Provided, that any county, city, town, township, the board of education of any city, or any school district, issuing bonds under this Article, may buy in and cancel any such bonds whenever the same can be done at or below par: Provided, further, that such sinking fund, when not required for the

payment or purchase of bonds, may be invested in bonds of the United States or of the State of Oklahoma, and in no other manner: And provided, further, that under the provisions of this Article, the proper officers are authorized, if desirable, to issue installment bonds, running twenty-five (25) years, having coupons attached, representing the semiannual interest to become due thereon; and each coupon attached to any installment bond shall, after five (5) years from its date, represent one-fortieth (1/40) of its principal, which amount shall be shown by separate words and figures aside from the interest represented in the coupon; and each installment bond shall show upon its face that its principal is included in its coupons **(62-399)**

> Bonded indebtedness represents long-term debt. General fund revenues may not be used to pay off bonded indebtedness or as a substitute for the statutory process to retire bonded indebtedness. *April 5, 2002 (AG Op. No. 02-14)*
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> When a board of education determines that the projects for which a bond issue was voted have been completed, the money remaining in the bond fund must be transferred to the sinking fund, which may be used to pay judgments against the school district if there is a compliance with statutory requirements. *AG Op. March 8, 1967*
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> The number of levies for sinking fund purposes depends upon the date of issuance and maturity of the bonds and is equal to the number of fiscal years intervening between the date of the issuance and the date of maturity of the bonds in which a tax levy may be made and the tax levy collected. *In re Gypsy Oil Co.*, 285 P. 67 (Okla. 1929)

Section 611. Payment.

Whenever the bonds or interest coupons issued under Sections 391 et seq. of this title, shall become due, they shall be, on presentation of coupon bonds, promptly paid by the proper disbursing officer, out of the money in his hands collected for that purpose; and he shall endorse upon the face of any bond or coupon paid by him, in red ink, the word "paid", and the date of payment, and sign his name thereto, and at each settlement he shall turn over the bonds and coupons so paid and canceled, which shall be carefully preserved or destroyed Provided however, the presentation of a registered bond shall not be required for payment of interest thereon when payment of interest is otherwise provided by the terms of the bond. **(62-400)**

> Bonded indebtedness represents long-term debt. General fund revenues may not be used to pay off bonded indebtedness or as a substitute for the statutory process to retire bonded indebtedness. *April 5, 2002 (AG Op. No. 02-14)*

Section 612. Penalty for Misappropriation.

Any person who shall appropriate or use, or aid or abet in appropriating or using, any of the funds or monies mentioned in this Article, for any other purpose than as in this Article, provided, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in a sum equal to the amount of money so appropriated or used, and imprisoned in the county jail for not less than three (3) nor more than twelve (12) months, and shall also be liable in a civil action for the amount so misappropriated or used, to be prosecuted by any such bond holder or other party entitled thereto. **(62-401)**

Section 613. Coupons Receivable for Taxes.

The interest coupons provided for in this article, shall, as fast as they become due, be receivable in payment of taxes due to the particular county, city, town, the board of education of any city, the township or school district, which may have issued such coupons, and shall be received by all collecting officers the same as cash, in payment of such taxes. **(62-402)**

Section 614. Cancellation.

All county, township and other municipal bonds on which final judgment shall hereafter be rendered by any court of record in this state shall be canceled in open court, and returned by the clerk of such court to the clerk of the proper municipality. **(62-403)**

Section 615. Sales of Bonds Must Net Par Value and Interest.

It shall be unlawful for any board of county commissioners, governing body of any municipality or school district or any other officer of any such political subdivision of this state, to sell, agree to sell or contract to sell any bonds issued by a vote of the people for any sum less than ninety-nine percent (995) of the face amount thereof with accrued interest added, and any and all commission allowed any firm, person or corporation for the sale of such bonds must, after being deducted from the sum total for which said bonds are sold, leave in the treasury the sum equal to at least ninety-nine percent (995) of the face value of the bonds and accrued interest thereof. **(62-351)**

Section 616. Violation By Public Officers - Penalties.

Any member of any board of county commissioners, any member of any governing body of a municipality or school district, and any other officer of any of the aforesaid political corporations or subdivisions of this state, or any other officer of any political subdivision of this state, who shall sell, or agree to sell, or contract to sell at less than par, any bonds of his respective county, city, town, township, school district, or other political corporation or subdivision, shall be guilty of a misdemeanor, forfeit and be removed from office, and in addition, be liable on his official bond for the difference between the sum received and the par value of the bonds with accrued interest thereon. **(62-352)**

Section 617. Officer Dealing in Bonds and Warrants - Misdemeanor.

A. It shall be unlawful for any public officer or deputy or employee of such officer to either directly or indirectly, buy, barter for, or otherwise engage in any manner in the purchase of any bonds, warrants or any other evidence of indebtedness against this state, any subdivision thereof, or municipality therein, of which he is an officer.

B. The provisions of this section shall not apply to those municipal officers and employees who are subject to Section 8-113 of Title XI of the Oklahoma Statutes. **(21-353)**

Section 618. Application of Sinking Fund.

Such sinking fund shall be used:

First. For the payment of interest coupons as they fall due.

Second. For the payment of bonds falling due, if any such there be, and,

Third. For the payment of judgments against the municipality, if any there be; provided, that when any sinking fund has been used or may hereafter be used to pay judgments as herein provided, that notwithstanding the fact that such judgment or judgments have been paid with such sinking fund, it shall be the duty of the proper officers to make levies to pay such judgments the same as if the same had not been paid out of such sinking fund, and when so levied and collected the same shall be turned into the sinking fund out of which such judgment or judgments was paid. **(62-435)**

> Mandamus was appropriate legal remedy to enforce a county's legal right to payment for school district's share of ad valorem tax revaluation program and such writ of mandamus represents a sinking fund obligation. *Board of County Commissioners v. City of Muskogee*, 820 P.2d 797 (Okla. 1991)
>
> A school district may not finance special improvement district assessments by levying a tax in excess of the number of mills permitted under Okla. Const. Art. X, Sec. 9. A school district may not utilize sinking fund levies pursuant to Okla. Const. Art. X, Sec. 28, where no judgment has been rendered against it. *December 2, 1985. (AG Op. No. 85-133)*

Section 619. Interest Rate Limitations on Bonds.

Bonds or other obligations of any type or character authorized and issued by counties, municipalities, and school districts, including, but not limited to, bonds or obligations issued pursuant to Section 15-101 of Title 70 and Section 738 of Title 19, public housing authorities created pursuant to the Oklahoma Housing Authorities Act, Sections 1051 et seq. of Title 63, or port authorities created pursuant to Section 1102 of Title 82, may bear interest at a rate not to exceed ten percent (10%) per annum, payable not more often than semiannually, without regard to the limitations in

any other law, general or special, except the Constitution of Oklahoma, except that said interest rate limitations shall not apply to any bonds or other obligations purchased by the federal government or any agency thereof. **(62-498.1)**

Section 620. Judgments.

Before final judgment in any suit based on contract shall be rendered against any municipality by any court of any county in the State of Oklahoma, except in proceedings to refund any indebtedness of said municipality, proof shall be made to the Court, of the existence, character and amount of the outstanding legal indebtedness of said municipality, which proof shall include a statement compiled by the various officers having custody of the records from which the information required in the statement is taken, under oath, showing the following:

1. An itemized statement of the bonded indebtedness of said municipality.

2. An itemized statement of the legal indebtedness of said municipality, exclusive of the bonded indebtedness and the alleged indebtedness proposed to be converted into a judgment.

3. An itemized statement of the indebtedness proposed to be converted into a judgment, so classified as to show, in separate exhibits, all items of questionable legality, if any, and the reasons of said officer or officers therefor:

(a) The appropriations against which each warrant was drawn or claim accrued if in judgment, and if within the limits and purposes thereof as provided by law;

(b) The income and revenue provided for the respective years, consisting of taxes levied and the actual collections of "estimated income"; the total warrants issued against the same or the accumulated accruals as the case may be, and the amount, if any, in excess of the total income and revenue of the year;

(c) The condition of each fund from which such indebtedness is payable as of the close of the month next preceding the filing of application.

Appeals from the judgment of the court shall be allowed as provided by law upon the giving of a bond for cost and damages in such sum as the court shall require; provided, that the district attorney of any county may, without the consent of the board of county commissioners of said county, take an appeal from said judgment on behalf of said county and without bond for cost and damages. **(62-362)**

Note: Title 12, O.S., §727, provides that judgments against school districts shall bear interest at a rate not to exceed 10 percent.

Statute that requires plaintiffs to prove political subdivision's ability to pay claim at issue so that subdivision does not exceed constitutional debt limitations does not specify any time frame for the scope or the presentation of that evidence, other than that it must be offered prior to final judgment. Plaintiffs must present proof of actual indebtedness for the fiscal year in which a judgment is entered before judgment can be rendered. *Ahlschlager v. Lawton School District*, 2010 OK 41.

Judgment for attorney fees entered against school district was invalid where trial court did not require the financial evidence required by this statute. Governmental Tort Claims Act has incorporated requirements of this statute prior to entry of final judgment when school district is self-insured or not fully covered by liability insurance. *Fields v. ISD No. 1 of Tulsa County*, 2002 OK CIV APP 109, 84 P.3d 779.

A board of education that is self-insured for workers' compensation must utilize the exclusive funding methods mandated in 85 O.S., §2b(A)(3) for such purposes. A board of education may not utilize the procedures of 85 O.S., §42 to fund its workers' compensation coverage in lieu of appropriating funds because Section 42 is not a funding statute. Section 42 is intended to be used solely as a mechanism for collecting judgments. *(AG Op. No. 90-9)*

Title 62 O.S., §361 and 362 must be complied with to have valid judgment. *Baylis v. City of Tulsa*, 780 P.2d 686 (Okla. 1989)

Section 621. Judgments - Compliance with Statute.

No judgment shall be rendered against any municipality by any court until the provisions of Section 2 hereof, have been fully complied with. Any judgment rendered in violation of the provisions of this act shall be void and of no effect. **(62-363)**

Section 622. Judgments - Less than $200.

The provisions of this act, except Section 3, shall not apply to any claim which is less than Two Hundred Dollars ($200.00). **(62-364)**

Section 623. Courts of Record - Exclusive Jurisdiction for Money Judgments.

It is hereby provided that courts of record shall have exclusive jurisdiction in all actions for money judgment or for establishing any indebtedness against any county, city, town, board of education, school district or other municipal subdivisions of the State of Oklahoma. **(62-365.1)**

Section 624. Judgment - Certified Copy to Officers of Municipality.

Whenever a judgment against a county in this state or any other municipal subdivision thereof, becomes final, the clerk of the court wherein such judgment was rendered, shall provide without cost a certified copy of the journal entry of such judgment to the judgment creditor or attorney for the judgment creditor who shall transmit same to each of the following municipal officers:

The clerk or secretary of the municipality defendant,

The treasurer of such municipality,

The secretary of the county excise board. **(62-365.2)**

Section 625. Officers - Record of Judgment and Levies.

Each of the three municipal officers named in Section 2 hereof shall maintain, on forms prescribed by the State Auditor and inspector, a record of such judgments and of levies made therefor and of payments made thereon. The record of the secretary of the county excise board shall be made to show, as to each such judgment also the case number and date of final decree of either the Oklahoma Court of Tax Review or of the Oklahoma Supreme Court invalidating any levy or part of levy attempted to be made therefor, and it shall be his duty to notify the court clerk, forthwith, of such decree, who shall make note of the same on his judgment roll. **(62-365.3)**

Section 626. Levy - Invalidated - Revived by Decree.

If an attempted levy for any judgment has once been invalidated by final decree either by the Oklahoma Court of Tax Review, not appealed from, or of the Supreme Court, by reason of jurisdictional defeat, then such judgment shall not again be included in levy computation until revived by decree from the court of original jurisdiction; and provided further that, the owner and holder of such judgment is hereby authorized to defend such judgment levy before any court. **(62-365.4)**

Section 627. Payment of Judgments.

Money judgments against any county or other municipal subdivisions of the State of Oklahoma shall be paid in the following manner, and may be paid in no other manner. No payment shall be made until such judgment is first spread on the budget for levy as to the first third thereof, and the levy or provision made therefor has become final. Within thirty (30) days after the final determination of any ad valorem tax protests as involve levy for judgments against the county or any of its municipal subdivisions, or, if no protests be filed, then after termination of the 40-day protest period, the judgment creditor or attorney for the judgment creditor, shall file with the treasurer of such municipality a claim, in form as prescribed by the State Auditor and Inspector, itemizing the judgments to be paid, stating the principal sum thereof, any sums paid thereon, and the balance due with interest computed on the unpaid portion of the principal amount of each judgment. The information required by the claim form shall be supplied by the treasurer of the municipality or of the county, as the case may be. Such treasurer shall thereupon canvass his sinking fund for the purpose of ascertaining if there be in his sinking fund for such municipality an amount of actual cash over and above the amount of cash needed to pay all coupons and bonds matured and maturing therein within the time such sinking fund will be replenished from levies made or to be made for such judgment, or judgments, he shall approve such claim in such amount as is neither in excess of such claim nor in excess of the actual cash reserve necessary for coupons and

bonds as herein before defined and shall transmit it to the clerk of such municipality. For all purposes of this act, the county clerk shall act for the county and all townships and dependent school districts therein. Upon receipt of such claim, the clerk shall audit the same against his own records and, if found correct he shall approve the same and return it to such treasurer, who shall pay the amount thereof out of such sinking fund, to the clerk of the court out of which such judgments issued. Upon receipt thereof such court clerk shall issue his official receipt and deposit said funds in his official depository account, and at the same time enter a credit in each case involved in accordance with the claim previously made or in ratio thereto; and thereafter, upon demand by the judgment creditor or his assignee of record, he shall make payment by his own official voucher in the same manner as in other cases and credit the judgment roll of such judgment with the amount of payment so made. No poundage or other fee shall be charged or collected by the court clerk for monies received or paid under the provisions of this act. If such claim can be only partly paid, under this section, other claims shall be filed from time to time thereafter, audited and paid in the same manner. No payment by the court clerk shall be authorized to be made to the assignee of any judgment unless such assignment, duly acknowledged, be first entered of record in such case and on such judgment roll. **(62-365.5)**

Governmental entity cannot simply ignore a judgment against it, paying the judgment only at its discretion. There are proper mechanisms for pursuing a judgment against a government entity and judgment creditor is entitled to execute on judgment using those mechanisms. *Bird Const. Co., Inc. v. Oklahoma City Housing Authority*, OK CIV APP 12, 110 P.3d 560 2005

Statutory procedures are exclusive methods for school district to satisfy judgment, and general fund monies may not be used to satisfy judgment. *December 11, 2000 (AG Op. No. 00-60)*

When a board of education determines that the projects for which a bond issue was voted have been completed, the money remaining in the bond fund must be transferred to the sinking fund, which may be used to pay judgments against the school district if there is a compliance with statutory requirements. *AG Op. March 8, 1967*

Section 628. Levies to Reimburse Sinking Fund.

If all, or more than one-third of a judgment be paid after the levy for the first third thereof becomes final, out of surplus cash as hereinbefore provided, levies to reimburse the sinking fund shall thereafter be made only if there be other outstanding indebtedness, in the same manner as if such prepayment had not been made, but levy for interest shall not be included on such prepaid portion other than for interest paid in excess of that already provided for by tax levy. **(62-365.6)**

An appropriation must be made for the payment of judgments and interest thereon in the manner required by law, though the judgments have been purchased with funds from the sinking fund. *Kansas City So. Ry. Co. v. Excise Board of Le Flore County*, 33 P.2d 493 (Okla. 1934)

Where a judgment has been rendered against a school district in a district court, and appeal is perfected to the Supreme Court, no levy of taxes should be made to pay any part of such judgment until the appeal is disposed of in the Supreme Court. *Jefferson County Excise Board v. Stanolind Pipe Line Co.*, 72 P.2d 805 (Okla. 1937)

The fact that a district court has by mandamus required an excise board to make a certain ad valorem tax levy to pay one-third of judgment against a school district does not affect the statutory right of a taxpayer to protect the levy before the court of Tax Review. *Jefferson County Excise Board v. Stanolind Pipe Line Co.* 72 P.2d 805 (Okla. 1937)

Section 629. Comprehensive Professional Risk Management Program.

A. The Department of Central Services is hereby directed to establish for all state agencies, whether or not subject to the Central Purchasing Act, and for such other entities as provided by law a comprehensive professional risk management program which shall:

1. Identify and evaluate all risks for state agencies and such other entities as provided by law;

2. Eliminate, reduce, or minimize all risks through a continuous effective loss-prevention and loss-control program;

3. Transfer risks if it is economically advantageous to the state to do so, by acquiring commercial insurance, or by contractual pass-off of liability, or by other means;

4. Consolidate and administer all plans and programs pertaining to risk management including self-insurance programs, except Workers' Compensation Insurance and State Employees Group Insurance;

5. Determine feasibility of self-insurance programs;

6. Establish, if feasible of self-insurance programs. Each self-insurance program so established shall be fully self-supporting and not dependent upon payments for insurance coverage under other programs to remain financially and actuarially sound;

7. Require payment by agencies for insurance provided by the risk management program; * * *

B. The Director of the Department of Central Services is authorized to hire or contract for the services of a Risk Management Administrator who shall supervise all aspects of the Comprehensive Professional Risk Management Program established pursuant to this section. If appointed by the Director as a state employee, the Risk Management Administrator shall be in the unclassified service.

C. The Risk Management Administrator shall also be responsible for the continuing evaluation of the insurance coverage needed by the state and the insurance coverage in force. All state agencies shall submit to the Risk Management Administrator any information which the Risk Management Administrator deems necessary to perform this duty.

D. The school districts of this state are authorized to request the Risk Management Administrator to supervise the purchase of insurance coverage for the school districts. * * * **(74-85.34)**

Section 629.1. Purchases From Department of Corrections.

A. The Department of Corrections is authorized to purchase in the manner prescribed by law, facilities, equipment, raw materials and supplies, and to engage the supervisory personnel necessary to establish and maintain for this state at the penal institutions, now or hereafter under the control of the State Board of Corrections, industries and agricultural programs for the utilization of services of prisoners in the manufacture or production of the articles or products as may be needed for the construction, operation, maintenance or use of any office, department, institution or agency supported in whole or in part by this state and the political subdivisions thereof. Upon the request of the Oklahoma Historical Society or the Oklahoma Tourism and Recreation Department, the Department of Corrections shall provide labor for and shall produce or manufacture articles, products or materials needed for the repair, construction and maintenance of historical sites and state parks including, but not limited to, the production of materials and products needed for the reconstruction of historic forts in the state.

B. All articles and services provided by the Department of Corrections in the state correctional institutions, and not required for use therein, shall be purchased as required by all offices, departments, institutions, agencies, counties, schools, colleges, universities, or political subdivisions or any agency thereof of this state which are supported in whole or in part by this state, if such article or service is the lowest and best bid, and no such article or product may be purchased by any such office, department, institution, agency, county, school, college, university, or political subdivisions or agency thereof from any other source unless excepted from the provisions as hereinafter provided. Purchases made by the above-described state agencies may be made by submitting the proper requisition through the Department of Central Services or by direct order to the prison industries program of the Department of Corrections.

C. If a requisition is received by the Department of Central Services or a direct order is received by the Prison Industries Program of the Department of Corrections from a state agency for any product or service provided by the Department of Corrections and such product or service is also available from a severely handicapped person or a qualified nonprofit agency for the severely handicapped as provided in Section 3001 et seq. of Title 74 of the Oklahoma Statutes at a comparable price, then the product or service shall be purchased from such severely handicapped person or qualified nonprofit agency for the severely handicapped. If the product or service is not available within the time period required by the purchasing state agency, then such product or service shall be purchased from the Department of Corrections under the provisions of this section.

D. All offices, departments, institutions, agencies, counties, cities, districts or political subdivisions, schools, colleges, or universities, or any agency thereof, or any agencies of the state, which are supported in whole or in part by this state, may purchase the goods or services produced by the prison industries of the Department of Corrections through their properly authorized purchasing authority, or they may place a direct order without competitive bid, with the prison industries of the Department of Corrections.

E. Not-for-profit corporations or charitable agencies chartered in Oklahoma or other states may purchase such goods and services. Units of the federal government and units of government in other states may also purchase such goods and services. All entities which contract with the state, its political units, its agencies, its public institutions, not-or-profit corporations or charitable agencies chartered in Oklahoma may purchase goods or services from the Department of Corrections which are used in the performance of such contracts. Any church located in the State of Oklahoma may also purchase goods and services produced by the prison industries of the Department of Corrections. Any community action agency or council of governments within this state may purchase housing components produced by the prison industries of the Department of Corrections. Nothing shall prohibit the Department from bidding on portions of a state contract which are subcontracted by the primary contractor.

F. Others are prohibited from purchasing such goods and services, with the exception that all surplus agricultural products may be sold on the open market or bartered and exchanged for other food, feed or seed products of comparable value. The Department of Corrections shall keep complete and accurate records of any such barters or exchanges in such form and manner as the Department of Central Services may prescribe. A copy of such records shall be filed with the Department of Central Services no later than March 1 of each year for all barters or exchanges occurring in the previous calendar year.

G. Products manufactured by the Department of Corrections shall be of styles, patterns, designs and quantities specified by the Department of Corrections except where the same have been or may be specified by the Department of Central Services. Products shall be provided at a fair market price for comparable quality.

H. State agencies shall make maximum utilization of such products and no similar products shall be purchased by state agencies from any other source than the Department of Corrections except as provided in subsection C of this section, unless the Department of Corrections certifies to the State Purchasing Director that it is not able to provide products, and no claim therefor shall be paid without such certification.

I. Exceptions from the mandatory provisions hereof may be made in any case where, in the opinion of the Department of Central Services, the article or product does not meet the reasonable requirements of or for such offices, departments, institutions or agencies, or in any case where the requisitions made cannot be reasonably complied with. No such offices, departments, institutions or agencies, shall be allowed to evade the intent and meaning of this section by slight variations from standards adopted by the Department of Central Services, when the articles, services or products produced or manufactured by the Department of Corrections, in accordance with established standards, are reasonably adapted to the actual needs of such offices, departments, institutions or agencies.

J. In the event of disagreement between the Department of Corrections and the State Purchasing Director on fairness of price, ability to comply to specifications, reasonableness of specifications and timeliness of delivery of products the matter will be resolved by the Central Purchasing Director.

K. The Department of Central Services shall cooperate with the Department of Corrections in seeking to promote for use in state agencies and by all other eligible customers, the products manufactured and services provided by the prison industries.

L. The Department of Corrections shall prepare catalogs containing the description of all goods and services provided, with the pricing of each item. Copies of such catalog shall be sent by the Department of Corrections to all offices, departments, institutions and agencies of this state, and shall be available for distribution to all other eligible customers. **(57-549.1)**

Section 630. Lease-purchase Contracts - Rental of Real Property or Equipment.

A. The governing board of any county, city or town, or school district is authorized to rent on a monthly basis real or personal property as authorized by the governing board and to pay the rental charges thereon for usage during any fiscal period, or portion thereof, out of appropriations made and approved for such purposes for, or during, such fiscal year. Any such rental contract extending beyond June 30 of the fiscal year shall contain provisions for mutual ratification of renewal under the conditions provided in this section.

B. As used in this section, the term “personal property” shall include, but not be limited to:

1. Portable, or otherwise moveable, buildings and structures;

2. Prefabricated metal buildings and structures, along with necessary utility services for such buildings or structures;

3. Roofs placed over existing roof structures; provided, lease-purchase of retrofit metal roofs shall be awarded by competitive bids and the governing board of any county, city or town, or school district shall comply with the Public Competitive Bidding Act of 1974 where total payments of principle and interest provided by the lease-purchase contract are anticipated to exceed Twenty-five Thousand Dollars ($25,000.00); and

4. Other structures or property that can be disassembled after installation and removed without permanent physical damage to existing property.

Notwithstanding the provisions of Section 7 of Title 60 of the Oklahoma Statutes, such personal property shall retain its status as personal property and shall not be deemed to become attached to the real estate for the duration of the lease-purchase agreement.

C. It is the purpose of this section to authorize such governing boards to enter into lease and lease-purchase contracts but not to incur any obligation upon the part of their respective municipal or governmental subdivisions in excess of the income and revenue thereof provided for such purposes for the fiscal year in which the lease contract is effectively operative.

D. Any agreement to lease and purchase real or personal property, where title is to be acquired by the municipal or governmental subdivision, shall state the purchase price of the real or personal property so leased and in no event shall the lease be extended so as to cause payment of more than the stated purchase price of the real or personal property plus interest not to exceed ten percent (10%) simple interest on the unpaid balance due as of each payment date. When the purchase price plus interest has been paid, the property shall belong to the lessee and the lessor shall deliver a bill of sale to the property to the lessee. Any lease-purchase agreement may include an option to purchase, transfer and acquire title during the term of the lease upon payment of the balance of the agreed purchase price, and each agreement shall include a provision to transfer title to the lessee at the end of the completed lease term for nominal or no additional consideration.

E. The payment for the lease or rental of real or personal property shall be made only from annual and supplemental appropriations specifically designated for such purpose, and no appropriation for the purpose of paying rentals on real or personal property shall be transferred or diverted to any other purpose, except as may be authorized by the terms of the agreement or by law.

F. When any real or personal property has been leased or rented during any fiscal year under any contract which permits continuance of such rental for the remainder of the fiscal year, the renting or leasing thereof shall be continued for the remainder of the fiscal year unless the governing body renting or leasing the same, by proper resolution entered in the minutes of the governing body, shall certify that the continuance of such rental is unnecessary and contrary to the public interest. However, to affect a contract termination of lease or lease-purchase equipment, written notice shall be sent by certified mail to the vendor thirty (30) days prior to the termination of the contract. Such notice shall be accompanied by payment of all sums then owed up to the date of the termination of the contract and shall certify that the canceled equipment is not being replaced by equipment performing similar functions. All equipment covered by such contract termination shall be returned to the vendor at the expense of the governmental agency terminating such contract. Such equipment shall be returned in good condition to a location designated by the vendor and the equipment, when returned, shall be free of all liens and encumbrances. Satisfaction of all of the requirements of this section shall release the governmental agency terminating such contract from any further obligation to make any further payments to the vendor. **(62-430.1)**

Note: See Section 68 herein for similar provisions.

Wherefore lease-purchase contract exists between private party and State or subdivision and contractual obligations must be performed within the year, the lessor holds merely a lien in property and governmental body is owner, making property exempt from ad valorem taxation. *March 16, 1989 (AG Op. No. 88-73)*

Lease agreement cannot be renegotiated for an amount in excess of original agreement. *AG Op. September 9, 1971*

Section 631. Firefighting Equipment.

The board of county commissioners of any county, the governing board of any city or town, the school board, or board of education of any school district is hereby authorized to participate in any federal government program dealing with fire prevention or with the purchasing or leasing of firefighting equipment, and said governing boards hereinabove enumerated are hereby authorized to receive and expend any federal grant or equipment made available by the federal government and to coordinate their program with the rules and regulations prescribed by the appropriate federal agency. **(62-430.5)**

Section 632. Noncollusion Affidavit Required for Competitive Bids Submitted to State.

Any competitive bid submitted to the State of Oklahoma or contract executed by the state for goods or services in excess of Five Thousand Dollars ($5,000.00) shall contain a certification, which shall be in substantially the following form:

A. For purposes of competitive bids, I certify:

1. I am the duly authorized agent of _____, the bidder submitting the competitive bid which is attached to this statement, for the purpose of certifying the facts pertaining to the existence of collusion among bidders and between bidders and state officials or employees, as well as facts pertaining to the giving or offering of things of value to government personnel in return for special consideration in the letting of any contract pursuant to the bid to which this statement is attached;

2. I am fully aware of the facts and circumstances surrounding the making of the bid to which this statement is attached and have been personally and directly involved in the proceedings leading to the submission of such bid; and

3. Neither the bidder nor anyone subject to the bidder's direction or control has been a party:

a. to any collusion among bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding,

b. to any collusion with any state official or employee as to quantity, quality or price in the prospective contract, or as to any other terms of such prospective contract, nor

c. in any discussions between bidders and any state official concerning exchange of money or other thing of value for special consideration in the letting of a contract.

B. I certify, if awarded the contract, whether competitively bid or not, neither the contractor nor anyone subject to the contractor's direction or control has paid, given or donated or agreed to pay, give or donate to any officer or employee of the State of Oklahoma any money or other thing of value, either directly or indirectly, in procuring the contract to which this statement is attached.

Certified this _____ day of_____ 20__. **(74-85.22)**

Section 633. Noncollusion Affidavit Required for Competitive Bids Submitted to School District.

Any competitive bid submitted pursuant to the Public Competitive Bidding Act of 1974 to a school district, county or municipality for furnishing of goods or services shall be accompanied by the sworn noncollusion statement contained in Section 85.22 of this title, modified in wording to refer to the school district, county or municipality instead of the state. **(61-138)**

Section 634. Repealed.

Section 635. Utility Bills Exempt.

This act shall not apply to monthly billings submitted to the state or any county or local subdivision of the state for public utility companies, electric cooperatives or telephone companies, whose services are regulated by the Oklahoma Corporation Commission nor to said utility companies, electric cooperatives or telephone companies for billings pertaining to installations or changes in service, where tariffs for such charges or billings by said companies are on file with the Oklahoma Corporation Commission. **(74-3110)**

Section 636. Member of Governing Body Not to Furnish Public Supplies.

A. It shall be unlawful for any member of any board of county commissioners, city council or other governing body of any city, board of trustees of any town, board of directors of any township, board of education of any city or school district, to furnish, for a consideration any material or supplies for the use of the county, city, town, township, or school district.

B. The provisions of this section shall not apply to those municipal officers who are subject to Section 8-113 of Title 11 of the Oklahoma Statutes or to a member of any board of education of a school district in this state which does not include any part of a municipality with a population greater than two thousand five hundred (2,500) according to the latest Federal Decennial Census when the board member is the only person who furnishes the material or supplies within ten (10) miles of the corporate limits of the municipality. However, any activities permitted by this subsection shall not exceed Five Hundred Dollars ($500.00) for any single activity and shall not exceed Two Thousand Five Hundred Dollars ($2,500.00) for all activities in any calendar year.

C. It shall not be unlawful for any member of any board of county commissioners, city council or other governing body of any city, board of trustees of any town, board of directors of any township, or board of education of any school district to vote to purchase materials or supplies from a business that employs a member of the governing body or employs the spouse of a member if the member or the spouse of a member has an interest in the business of five percent (5%) or less. **(21-355)**

Section 637. Contract or Purchase Void - Member of Body Liable.

Any contract or purchase made in violation of the first preceding section shall be void, and no appropriation of public funds shall be made to pay the amount of same; but the members of the body voting for such contract or purchase shall be held personally liable for the amount thereof. **(21-356)**

Section 638. Penalty for Such Contract or Purchase.

Any member of any public body, such as is specified in Section 355 of this title, who shall be a party to any such contract or purchase therein declared unlawful, or who shall receive any money, warrant, certificate, or other consideration thereunder, or who shall vote for or assent to any such contract or purchase, shall be guilty of a felony. The fine for a violation of this section shall not be more than Five Hundred Dollars ($500.00). Such fine shall be in addition to any other punishment provided by law and shall not be in lieu of other punishment. **(21-357)**

Section 639. Contracts With Officers Void.

A. Except as otherwise provided in this section, no board of county commissioners, nor city council, nor board of trustees of any town, nor any district board of any school district in this state, nor any board of any local subdivision of this state shall make any contract with any of its members, or in which any of its members shall be directly or indirectly interested. All contracts made in violation of this section shall be wholly void.

However, for the purpose of this section, the following shall not be considered the making of a contract:

1. The depositing of any funds in a bank or other depository;

2. Any contract with a qualified nonprofit Internal Revenue Code Section 501(c)(3) organization, except for contracts paying salaries or expenses or except a contract entered into by a school district involving the counseling or instruction of students or staff; and

3. Monthly billings submitted to any county or local subdivision of the state for public utility companies, electric cooperatives or telephone companies, whose services are regulated by the Oklahoma Corporation Commission, or billings or the utility companies, electric cooperatives or telephone companies pertaining to installations or changes in service, where tariffs for the charges or billings by the companies are on file with the Oklahoma Corporation Commission.

In addition, the governing board of a technology center school district may enter into a contract for the technology center school district to provide training for a company, individual, or business concern by which a member of the board is employed. A board member shall abstain from voting on any such contract between the technology center school district board and the company, individual, or business concern by which the member is employed.

B. The provisions of this section shall not apply to:

1. Those municipal officers who are subject to Section 8-113 of Title 11 of the Oklahoma Statutes; or

2. A member of any board of education of a school district or a director or member of any rural water, sewer, gas and solid waste management district organized pursuant to Section 1324.1 et seq. of Title 82 of the Oklahoma Statutes in this state which does not include any part of a municipality with a population greater than two thousand five hundred (2,500) according to the latest Federal Decennial Census when the board member is the only person who furnishes the material or supplies within ten (10) miles of the corporate limits of the municipality.

However, any activities permitted by this subsection shall not exceed Five Hundred Dollars ($500.00) for any single activity and shall not exceed Two Thousand Five Hundred Dollars ($2,500.00) for all activities in any calendar year.

C. The provisions of this section shall not apply to conservation district board members participating in programs authorized by Section 3-2-106 of Title 27A of the Oklahoma Statutes.

D. Notwithstanding the provisions of this section, any officer, director or employee of a financial institution may serve on a board of a public body. Provided, the member shall abstain from voting on any matter relating to a transaction between or involving the financial institution in which the member is associated and the public body in which member serves.

E. The provisions of this section shall not apply to any board of county commissioners purchasing motor fuel for exclusive use by the county from a cooperative agricultural association in which a member of the board of county commissioners has a financial of proprietary interest. The county commissioner having a financial or proprietary interest in the cooperative agricultural association shall abstain from voting on any such purchase or contract between the county and the cooperative agricultural association. Except as provided in this subsection, the purchasing procedures required by law for counties and county officers shall not otherwise be modified.

F. A member of a board of county commissioners, city council, board of trustees of any town, district board of any school district in this state, or of any board of any local subdivision of this state shall not be considered to be directly or indirectly interested in any contract with a person or entity that employs such member or the spouse of the member, if the member or the spouse of the member has an interest in the employing entity of five percent (5%) or less. **(62-371)**

Provisions relieving school board members of certain conflicts of interest are not unconstitutional. *April 28, 2003 (AG Op. No. 03-17).*

Section 640. Fraudulent Claims - Liability of Public Officers.

Every officer of the state and of any county, city, town or school district, who shall hereafter order or direct the payment of any money or transfer of any property belonging to the state or to such county, city, town or school district, in settlement of any claim or in pursuance of any unauthorized, unlawful or fraudulent contract or agreement made, for the state or any such county, city, town or school district, by any officer thereof, known to such officer to be fraudulent or void, and every person, having notice of the facts, with whom such unauthorized, unlawful or fraudulent contract shall have been made, or to whom, or for whose benefit such money shall be paid or such transfer of property shall be made, shall be jointly and severally liable to the state, county, city, town or school district affected, for triple the amount

of all such sums of money so paid, or triple the value of property so transferred, as a penalty, to be recovered at the suit of the proper officers of the state or such county, city, town or school district, or of any resident taxpayer thereof, pursuant to Section 373 of this title; provided, however, no action for personal liability shall lie against any such officer for a transaction approved in good-faith reliance on advice of legal counsel for the public entity authorizing the transaction or which has been submitted to a court of competent jurisdiction for determination of legality. **(62-372)**

Note: Amended by SB 331, Sec. 1 of the 2011 Reg. Sess. Effective November 1, 2011.

Resident taxpayers of a state governmental unit may seek qui tam relief to recover money or property belonging to the government that was paid out or transferred illegally or without authority. *City of Broken Arrow v. Bass Pro Outdoor World, L.L.C.*, 2011 OK 1.

Resident taxpayers of a state governmental unit may, in the name of the State of Oklahoma as plaintiff, seek qui tam relief to recover money or property belonging to that governmental unit that was paid out or transferred illegally or without authority. *State ex rel. Wright v. Oklahoma Corporation Commission, 2007 OK 73, 170 P.3d 1024*

Section 641. Taxpayer May Institute Suit on Failure of Officers.

Upon the refusal, failure, or neglect of the proper officers of the state or of any county, city, town, or school district, after written demand signed, verified and served upon them by a number of registered voters of the state or such county, city, town, or school district equal to one hundred (100), or two and one-half percent (2 ½%) of the registered voters living within the state or such county, city, town or school district, whichever is less, to institute or diligently prosecute proper proceedings at law or in equity for the recovery of any money or property belonging to the state, or such county, city, town, or school district, paid out or transferred by any officer thereof in pursuance of any unauthorized, unlawful, fraudulent, or void contract made, or attempted to be made, by any of its officers for the state or any such county, city, town, or school district, any resident taxpayer of the state or such county, city, town, or school district affected by such payment or transfer after serving the notice aforesaid and after giving security for cost, may in the name of the State of Oklahoma as plaintiff, institute and maintain any proper action which the proper officers of the state, county, city, town, or school district might institute and maintain for the recovery of such property; and the state or such county, city, town or school district shall in such event be made defendant. If a court of competent jurisdiction determines the claims to be meritorious, the contract shall be deemed void and the money or property, if previously transferred, shall be returned to the state, county, city, town or school district. The state, county, city, town or school district shall be liable to the resident taxpayer or taxpayers for reasonable attorney fees and court costs incurred in the prosecution of the action. If all claims stated by the resident taxpayers in the written demand are determined in a court of competent jurisdiction to be frivolous, the resident taxpayers who signed such demand and who are parties to the lawsuit in which such claims are determined to be frivolous shall be jointly and severally liable for all reasonable attorney fees and court costs incurred by any public officer or officers or any other person alleged in such demand to have paid out, transferred, or received any money or property belonging to the state, or such county, city, town or school district in pursuance of any alleged unauthorized, unlawful, fraudulent, or void claim paid or contract or conveyance made, or attempted to be made, by such officer or officers. **(62-373)**

Note: Amended by SB 331, Sec. 2 of the 2011 Reg. Sess. Effective November 1, 2011.

Resident taxpayers of a state governmental unit may seek qui tam relief to recover money or property belonging to the government that was paid out or transferred illegally or without authority. *City of Broken Arrow v. Bass Pro Outdoor World, L.L.C.*, 2011 OK 1.

This section applies only to transactions involving the transfer of property or the paying out of money and may not be used to compel a county assessor to discover and assess omitted property. *July 23, 1999 (AG Op. No. 99-42)*

Although Sec. 373 requires naming the political subdivision as a defendant, it does not do so for the purpose of imposing liability, but to have its rights considered and to be bound by the judgment entered. *State ex rel. Scott v. State ex rel. University Hospital Authority*, 887 P.2d 1385 (Okla. App. 1994)

Section 642. (Omitted).

Section 643. Conspiracy to Commit Offense or to Defraud.

If two or more persons conspire either to commit any offense against the State of Oklahoma, any county, school district, municipality or subdivision thereof, or to defraud the State of Oklahoma, any county, school district,

municipality or subdivision thereof, in any manner or for any purpose, and if one or more of such parties do any act to effect the object of the conspiracy, all the parties to such conspiracy shall be guilty of a felony punishable by a fine of not more than Twenty-five Thousand Dollars ($25,000.00) or imprisonment for not more than ten (10) years or by both such fine and imprisonment. **(21-424)**

Section 644. Blanket Purchase Orders.

A. A municipality, county or school district may issue a blanket purchase order for:

1. recurring purchases of goods or services if a maximum authorized amount for all purchases pursuant to a blanket purchase order is specified in the order and approved by the governing board; or

2. the repair of county equipment, machinery or vehicles when the estimated cost of repairs is greater than Two Thousand Five Hundred Dollars ($2,500.00).

The maximum authorized amount of a blanket purchase order may be increased to cover unforeseen expenses. A written explanation of said increase shall be attached to the blanket purchase order prior to payment.

B. Blanket purchase orders shall be prepared, filed, and encumbered in the manner provided for purchase orders and as authorized by law or regulation, except no written requisition shall be required for a blanket purchase order. Prior to payment, the requesting county officer shall verify the blanket purchase order by signature. Before transacting any purchase pursuant to a blanket purchase order, the order shall be submitted to the governing board for its approval. After satisfactory delivery of goods or services pursuant to a blanket purchase order, a vendor's invoice shall be submitted to and approved by the purchasing officer of a municipality or a school district or a county purchasing agent and forwarded for payment. An itemized list of goods or services purchased pursuant to the blanket purchase order shall be attached to the vendor's invoice if said invoice does not contain an itemized list of goods or services purchased pursuant to the blanket purchase order. Payment of invoices from vendors pursuant to a requisition and approved blanket purchase order issued pursuant to the provisions of this section shall be authorized by the encumbering officer. **(62-310.8)**

Section 645. Sworn Statements on Invoices.

A. Except as provided in subsection B of this section, on every contract entered into by any county, school district, technology center school district or political subdivision of the state for an architect, contractor, engineer or supplier of construction materials of Twenty-five Thousand Dollars ($25,000.00) or more, shall be the following signed statement:

STATE OF OKLAHOMA)
) ss.
COUNTY OF)

The undersigned (architect, contractor, supplier or engineer), of lawful age, being first duly sworn, on oath says that this contract is true and correct. Affiant further states that the (work, services or materials) will be (completed or supplied) in accordance with the plans, specifications, orders or requests furnished the affiant. Affiant further states that (s)he has made no payment directly or indirectly to any elected official, officer or employee of the State of Oklahoma, any county or local subdivision of the state, of money or any other thing of value to obtain or procure the contract or purchase order.

_____
(Contractor, architect, supplier or engineer)

Attested to before me this ___ day of _____, 20___.

B. Any county, municipality or school district executing a contract with any architect, contractor, supplier or engineer for construction work, services or materials which are needed on a continual basis from such architect, contractor, supplier or engineer under the terms of such contract, or executing more than one contract during the fiscal year with such architect, contractor, supplier or engineer, may require that the architect, contractor, supplier or engineer complete a signed affidavit as provided for in subsection A of this section which shall apply to all work, services or materials completed or supplied under the terms of the contract or contracts. **(62-310.9)**

Section 646. Deposits with Federal Instrumentalities.

The State Treasurer, and the treasurers of counties, school districts, cities, towns, municipalities and any other political subdivision of the state, and any other officer, board, department or commission having custody and management of any public or trust fund or funds are hereby specifically authorized to deposit said fund or funds in any federally-insured building and loan association wherever located, whether federally or state chartered, in any amount and to the extent that such deposit is fully insured by the Federal Savings and Loan Insurance Corporation or any other instrumentality of the United States Government. When any such insured deposit is made it shall not be necessary for such treasurer, officer, board, department or commission to require any security, and such insurance shall be accepted in lieu of any security, restriction or other limitation now required or imposed by law upon the deposit of public funds. **(62-513)**

Section 646.1. Legislature to Present Funding Measures.

The Legislature shall present measures that provide full funding for the support of common education to the Governor pursuant to Section 11 of Article VI of the Oklahoma Constitution for the Governor's consideration at least twenty-five (25) days prior to the date established by subsection E of Section 6-101 of Title 70 of the Oklahoma Statutes, but not later than April 1, in order for the boards of education of the school districts of this state to make decisions on teacher contracts. **(62-9.11)**

Section 646.2. Security for Local Public Deposits Act.

Sections 8 through 14 of this act shall be known and may be cited as the "Security for Local Public Deposits Act". **(62-517.1)**

Section 646.3. Definitions.

As used in the Security for Local Public Deposits Act:

1. "Financial institution" means any bank, savings bank, savings and loan association or credit union; and

2. "Public entity" means any county, city, town or board of education of a public school district or vocational-technical school district or other governmental or public entity of a local nature which is required or permitted by law to collateralize its deposits. **(62-517.2)**

Section 646.4. Public Deposits by Treasurer.

A. All public deposits made by a treasurer of a public entity in financial institutions shall be secured as provided for in the Security for Local Public Deposits Act. As used in this section, "public deposits" means all forms of demand deposits or time deposits, but shall not include other investments authorized by statute which are made by a treasurer of a public entity.

B. The treasurer of every public entity shall deposit daily, not later than the immediately next banking day, all funds and monies of whatsoever kind that shall come into the possession of the treasurer by virtue of the office, in one or more financial institutions that have been designated as either state or county depositories, or both, and the acceptance of any such deposit from any such treasurer shall be tantamount to adoption, in relation thereto, of the same privileges and conditions, other than collateral security, as are now provided by law in acceptance of designation as state or county depositories. The treasurer may establish a depository or depositories for demand accounts in financial institutions outside of the governmental or municipal area of the treasurer but within this state. The State Treasurer is hereby authorized to be the official depository for the treasurer of any county, and for the treasurer of any city or board of education where such city or school district has a population of five thousand (5,000) or more inhabitants but only for deposit of remaining fund balances in inactive funds and not for checking purposes. The county treasurer is hereby authorized to be official depository for the treasurer of any city, town, or board of education. **(62-517.3)**

Section 646.5. Security for Public Deposits.

A. A treasurer of a public entity shall require that financial institutions deposit collateral securities or instruments to secure the deposits of the public entity in each such institution. The amount of collateral securities or instruments to be pledged for the security of public deposits shall be established by the treasurer of the public entity consistent with the provisions of the Security for Local Public Deposits Act; provided, such amount shall not be less than the amount of the deposit to be secured, less the amount insured.

B. Upon authorization by the treasurer of a public entity, a financial institution shall place required collateral securities in a restricted account at a Federal Reserve Bank which serves Oklahoma, a Federal Home Loan Bank which serves Oklahoma or with another financial institution located in this state that is not owned or controlled by the same institution or holding company. The State Treasurer shall designate a number of such financial institutions authorized to serve as safekeeping or custodial institutions. The financial institution depositing collateral securities shall deliver to the treasurer of the public entity a power of attorney authorizing the treasurer to transfer or liquidate the securities in the event of a default, financial failure or insolvency of a public depository. The State Treasurer must approve any forms or pledge agreements used by public entities and financial institutions in securing public deposits of public entities.

C. Securities eligible for collateral shall be valued at market value. The treasurer shall review and determine the market value of collateral pledged for security not less than quarterly. The market value of pledged securities shall be provided to the treasurer by either the financial institution holding the deposit or the financial institution holding the collateral securities, which market value must have been obtained from an independent, recognized and documented source. The State Treasurer shall promulgate rules to provide for the valuation of collateral if the market value is not readily determinable. The State Treasurer shall prescribe reporting requirements and forms for financial institutions to list collateral securities pursuant to this section.

D. The State Treasurer shall promulgate rules for the acceptance of collateral instruments described in Section 12 of this act, to secure deposits of the public entity. Such rules shall require that sufficient documentation exists to establish that the provider of the collateral instrument will protect the public entity in the event of a default, financial failure or insolvency of a public depository.

E. All securities purchased by a treasurer of a public entity or held in custody for other departments of the public entity by the treasurer shall be held in financial institutions not involved in such transactions and shall not be held by the treasurer or a broker. **(62-517.4)**

Section 646.6. Collateral for Public Deposits.

A. For purposes of securing public deposits, the treasurer of a public entity may accept as collateral only those securities and other instruments listed below. To insure the safety of public funds, the treasurer may establish standards which restrict, or limit further, any of the types or classes of securities or instruments listed below which may be accepted. Any treasurer of a public entity may request the State Treasurer to determine the eligibility of an individual security for pledging under this section. The treasurer may select the following securities and instruments for the purpose of securing public deposits:

1. Obligations, including letters of credit of the United States Government, its agencies and instrumentalities;

2. Obligations of this state or of a county, municipality, or school district of this state or of an instrumentality of this state or a county, municipality or school district of this state;

3. General obligation bonds of any other state of the United States; and

4. A surety bond if:

a. subject to the terms and conditions of the bond, it is irrevocable and absolute,

b. the surety bond is issued by an insurance company authorized to do business in Oklahoma, and which has been approved by the State Treasurer,

c. the issuer of the surety bond does not provide surety bonds for any one financial institution in an amount that exceeds ten percent (10%) of the surety bond insurer's policyholders' surplus and contingency reserve, net of reinsurance, and

d. the claims-paying ability of the authorized insurance company is rated, at all relevant times, in the highest category by at least two nationally recognized rating agencies acceptable to the State Treasurer.

B. A financial institution may substitute different forms of collateral from time to time, provided that the collateral is acceptable to the treasurer, and meets the requirements of this section and the rules of the State Treasurer. **(62-517.5)**

Section 646.7. Default or Insolvency of Public Depository.

In the event of a default or insolvency of a public depository, the treasurer of a public entity shall implement the following procedures:

1. In cooperation with the State Department of Banking and other regulatory officials, the treasurer shall ascertain the amount of public funds on deposit at the defaulting institution and the amount of deposit insurance applicable to such deposit;

2. The potential loss to the public entity shall be calculated by the treasurer. The loss to the public entity shall be satisfied, insofar as possible, first through any applicable deposit insurance and then through the sale of securities pledged, or through the proceeds of collateral instruments pledged, by the defaulting depository institution. Such sales shall be conducted by the treasurer;

3. The securities, bonds or other forms of collateral shall become forfeited to and become the property of the public entity. If the securities, bonds or other forms of collateral are valued at less than the amount of principal and interest due to the public entity plus the cost of the ensuing sale, the securities, bonds and other forms of collateral shall be sold by the treasurer, and the treasurer shall be entitled to recover from the financial institution such balances with costs and attorney's fees. If the market value of the securities, bonds or other forms of collateral exceeds the principal and interest due to the public entity plus the cost of the ensuing sale, the securities, bonds and other forms of collateral may be sold by the treasurer and the excess of the proceeds shall be returned to the pledging financial institution or its receiver, without further process of law. **(62-517.6)**

Section 646.8. Liability of Treasurer.

When public deposits are made in accordance with the Security for Local Public Deposits Act, the treasurer of a public entity shall not be liable for any loss resulting from the default or insolvency of a public depository in the absence of negligence, malfeasance, misfeasance or nonfeasance on the part of the treasurer. **(62-517.7)**

Section 647. (Omitted – not applicable to school districts.)

Section 648. When No Funds-Payment Thereafter in Order of Presentation - Penalty for Violation.

Whenever a warrant or order shall be presented to any treasurer named in the preceding section, and the same is not paid for the reason that there is not money sufficient in the fund on which same is drawn, the treasurer shall endorse on the back of such warrant or order, "Not paid for want of funds," number, date and sign the same; and he shall set down in a book to be kept for that purpose, the number, amount, the date and upon what fund drawn, to whom payable, and the date when presented for payment, and such warrants or orders shall be paid in the order of their presentation and registration as shown by such book, and such book shall be known in each such office as the "Warrant Register", and any such treasurer who shall fail, neglect or refuse to pay any warrant or order drawn on the treasurer in the order of registration as shown by the warrant register, or shall pay any warrant or order so drawn out of its regular order, and give preference to the same over other warrants or orders, shall be deemed guilty of a misdemeanor, and upon conviction shall be subject to a fine of not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00). **(62-552)**

Section 649. Purchase of Nonpayable Warrants - Oklahoma Commission on School Funds Management.

A. No public trust, school district or county shall issue any bonds, notes, certificates of participation, certificates of indebtedness or any other evidence of indebtedness, excluding nonpayable warrants and agreements with a depository bank to honor payment of checks when there are insufficient funds, for the purpose of short-term cash management by any school district or county unless such school district or county shall have been approved for participation by the Oklahoma Commission on School and County Funds Management.

As used in this section, "short-term cash management" means any borrowing or any method employed by a school district or county to obtain funds in advance of the receipt of tax revenue, and shall include, but not be limited to, the issuance of certificates of indebtedness, certificates of participation, tax-anticipation notes, bonds, notes, or any other evidence of indebtedness. It shall not include debt issued pursuant to a vote of the electors of the school district or county pursuant to the Constitution.

B. The Oklahoma Commission on School and County Funds Management, shall consist of the State Superintendent of Public Instruction, the Director of the Oklahoma Department of Career and Technology Education, and the State Bond Advisor. The Commission shall:

1. Receive requests of school districts and counties for authorization to participate in a short-term cash management program where the proceeds will be used to facilitate cash-flow management. The requests must be received by the Commission on or before April 1 in order for the school district or county to be considered for participation during the next fiscal year, unless such date is extended by the Commission;

2. Within five (5) business days of receiving a request, forward the request to the appropriate certifying authority. If the request and accompanying material meet the requirements of this act, the certifying authority must return the request and accompanying information to the Commission with a written review and comment within sixty (60) days of receipt of the request from the Commission. The certifying authority for school districts shall be the State Superintendent of Public Instruction and for technology center school districts, shall be the Director of the Oklahoma Department of Career and Technology Education and for counties, shall be the State Board of Equalization;

3. Approve or reject each request for participation, and forward notice of the decision of the Commission to the requesting school district or county and to the Office of the Governor. The Commission shall approve or reject a request within thirty (30) days following the date it receives the request and accompanying information with a written review and comment from a certifying authority;

4. Certify the need for funds generated by the proposed short-term cash management based on the financial projections of the school district or county, including the projected cash-flow shortfall, estimated income, and anticipated surplus balances on June 30 of the current fiscal year in the general and building funds of the school district or county. Accumulative cash-flow shortfall projections must be determined using the method specified by Section 148 of the Internal Revenue Code;

5. Establish reasonable limits for fees, commissions and other compensation paid to any person or firm involved with the proposed short-term cash management program;

6. Establish participation limitations for a school district or a county using the method specified in Section 148 of the Internal Revenue Code. No school district or county shall participate in a short-term cash management program in an amount which exceeds the determination of need pursuant to the accumulative cash-flow projections as specified in paragraph 4 of this subsection or forty percent (40%) of the approved annual budget of the school district or county, whichever is less;

7. Establish limitations which prohibit school districts and counties which are participating in a short-term cash management program from issuing nonpayable warrants if proceeds are available from the short-term cash management program;

8. Submit an annual report, by December 15 of each year, to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Governor, the State Auditor and Inspector and the Attorney General, detailing

the participation of each school district and county for the prior fiscal year in the short-term cash management programs authorized by this act; and

9. Prescribe methods and procedures by which school districts or counties may request authorization to participate in short-term cash management programs.

C. School districts and counties desiring to participate in a short-term cash management program as provided in subsection A of this section shall file a request with the Commission on such forms as the Commission shall prescribe. Such request shall be accompanied by:

1. A resolution adopted by the board of education of the school district or by the county commissioners of a county. Such resolution shall state that the school district or county intends to and has need to participate in a short-term cash management program and that the board of education or county commission has authorized the submission of such request;

2. A letter signed by the underwriter of the short-term cash management program that specifies the name and address of all persons and firms receiving compensation, directly or indirectly, involved with the proposed short-term cash management program. All persons and firms designated shall not be paid out of school or county funds. For purposes of this paragraph, school or county funds shall not include the proceeds from certificates of indebtedness or certificates of participation generated from a short-term cash management program;

3. A verification from the Administrator of the Oklahoma Department of Securities that all persons receiving compensation, directly or indirectly, for providing advice to the school districts or counties concerning participation in the program or for endorsing participation in the program are appropriately registered with the Oklahoma Department of Securities as investment advisers or investment adviser representatives, as applicable, and that all persons receiving compensation, directly or indirectly, for the placement of the certificates of participation or like securities with investors are registered as broker-dealers or agents, as applicable;

4. The estimated income and expenditures of the school district or county for the year for which the school district or county wishes to participate in a short-term cash management program. The appropriate certifying authority shall develop and provide an income and expenditure disclosure form for use by a school district or county which desires to participate in a short-term cash management program which follows the applicable portions of the information return required by Section 148 of the Internal Revenue Code. The information supplied in the disclosure form must reflect the ability of the school district or county to pay off an amount equal to the district's or county's liability on the program from the income from the fiscal year of participation, prior to approval for participation by the Commission. If the Commission determines that a question exists concerning any information submitted pursuant to this subsection, the Commission may request any additional information from the school district or county that it deems necessary;

5. A copy of the most recent information return for a short-term cash management program filed with the Internal Revenue Service pursuant to Section 149(e) of the Internal Revenue Code;

6. An affidavit by all persons, firms, corporations or business enterprises of any kind which provide services for compensation on any financing to implement a short-term cash management program, which shall be signed under oath on a form approved by the Commission and which shall state that such persons, firms, corporations or business enterprises have not given any money or other thing of value, other than a bona fide campaign contribution, to any public official or to any public employee of a school district or county participating in such a cash management program. Any such person, firm, corporation or business enterprise shall also file a disclosure statement on a form approved by the Commission, which shall disclose all campaign contributions of any kind made to any public official of a school district or county participating in such a short-term cash management program and shall also disclose the identity of any officer, director, agent or employee of such person, firm, corporation or business enterprise who is an officer or employee of a school or county participating in a short-term cash management program, or who is related to such officers or employees within the third degree of affinity or consanguinity;

7. A notarized sworn affidavit executed by each member of a board of education of a school district, the superintendent of schools and the treasurer of the school district or by each county commissioner of a county and the county treasurer, which states that the person or any member of the immediate family of the person has no direct or indirect financial interest in the short-term cash management program being requested. The affidavit shall be on a form prescribed by the Commission;

8. A summary report detailing all expenses incurred by a school district or county in participating in a short-term cash management program. The report shall be on a form prescribed by the Commission; and

9. Any application and other materials including any other necessary financial information, as may be required by the Commission.

D. If the information required to be submitted pursuant to this section meets all requirements established by the Commission and the Commission has approved such information and participation, and the participation is otherwise in accordance with law, the Oklahoma Commission on School and County Funds Management shall authorize the participation of the school district or county in the short-term cash management program. The Commission shall notify the school district or county in writing, whether the requirements of this section have been satisfied and approved.

E. School districts and counties participating in a short-term cash management program authorized by this section shall report to the Commission the probable income and expenses of anticipated investment income. The report shall not include probable income or expenses related to participation in a short-term cash management program.

F. The ability of a school district or county to issue general obligation bonds shall not be modified by this act.

G. The Office of the Attorney General shall provide legal assistance to the Oklahoma Commission on School and County Funds Management. **(60-177.2)**

Section 650. Notice of Ability to Pay Registered Warrants - Publication.

It shall be the duty of all such treasurers, whenever any money comes into their hands by virtue of their respective office, to set apart a sufficient fund to pay any or all warrants or orders they may have registered in compliance with the provisions of Section 551 et seq. of this title, and to keep the same until called for; and the State Treasurer shall make regular calls, at least every sixty (60) days, by publishing notice in some newspaper of general circulation published at the state capitol, giving notice that he has money in his hands with which to pay warrants, and give the numbers and the several funds, and requesting that the same be presented at the Treasury for payment and cancellation, and every county treasurer, city or town treasurer and the treasurer of every board of education, shall make calls for warrants or orders by posting notices in the manner as provided by Section 475 of this title or by publication of a like notice as that required of the State Treasurer, in some paper of general circulation published in the county, and the interest on any and all warrants or orders called as above specified, shall cease on and after thirty (30) days from the date of the publication of such notice: Provided, that each county treasurer shall transmit to the State Treasurer all state funds or warrants in his hands on the first day of each month: Provided, further, that any treasurer who violates any of the provisions of the Article, shall be guilty of a misdemeanor, and punished as provided in Section 552 of this title: And provided, further, that each school district treasurer shall publish such notice by posting printed or written notices of the same in two or more public places in his district. **(62-553)**

Section 651. Non-Payable Warrants - Interest.

Every treasurer shall, upon the expiration of his term of office, deliver to his successor in office such warrant register, and each successor in office shall in all things act as though the entries of such warrants or orders were made and registered by himself and the registration of all warrants in such book of warrant registration shall be by each succeeding treasurer continued and no warrant shall draw interest until registered as herein provided for, and not paid for want of sufficient funds; and all warrants registered, as provided by this Article, and not paid for want of sufficient funds, shall draw an annual rate of interest to be fixed by the governing board not to exceed five percent (5%) per annum, except state warrants which shall draw interest at a rate to be fixed by the State Board of Equalization not to exceed four percent (4%) per annum. **(62-554)**

Note: For interest rate on bonds, see Sections 619.

Section 652. (Omitted – not applicable to school districts.)

Section 652.1. Levy and Collection of Taxes for Public Purposes Only.

Taxes shall be levied and collected by general laws, and for public purposes only, except that taxes may be levied when necessary to carry into effect Section thirty-one of the Bill of Rights. Except as required by the Enabling Act, the State shall not assume the debt of any county, municipal corporation, or political subdivision of the State, unless such debt shall have been contracted to defend itself in time of war, to repel invasion, or to suppress insurrection. **(Article 10, § 14, Okla. Const.)**

The Legislature declares the fiscal policy of Oklahoma. The Oklahoma Supreme Court has upheld the constitutionality of Oklahoma non-economic development income tax credits. They are not a gift and do not violate Sections 14 and 15 of Article X of the Oklahoma Constitution. They must, however, have a "reasonable classification and reasonable opportunity for uniform or equal incidence upon the class created." *(AG Op. No. 2010-16)*

To be constitutional an Oklahoma economic development income tax credit must have three factors present: 1) it must promote a "public purpose" affecting the inhabitants of the state as a community, and not as individuals; 2) adequate consideration must be present; and 3) there must be adequate controls and safeguards in place. The mere investment of money into a company does not satisfy the three factors for a valid Oklahoma economic development income tax credit. When the three factors are present there is no gift and the Oklahoma economic development income tax credit does not violate Sections 14 and 15 of Article X of the Oklahoma Constitution. *(AG Op. No. 2010-16*)

A legislator is prohibited from using public funds to send a communication that is nothing more than a personal birthday greeting to voters/constituents in the legislator's district. In contrast, information contained in a communication relating to the legislator's work in his or her capacity as a legislator serves a public purpose. *September 21, 2005 (AG Op. No 05-32)*

This provision prohibits the Legislature from making a gift of public monies to any company, association, or corporation. A "gift" includes all appropriations for which there is no authority or enforceable claim against the State. *Orthopedic Hosp. Of Okla. V. The Okla. State Dept. Of Health,* 2005 OK CIV APP 43, 118 P.3d216

Any expenditure by a school district for meals, refreshments, membership dues, or other such expenses must be for a lawful "public purpose." *June 27, 2001 (AG Op. No. 01-30)*

A school district may use its school activity fund account to deposit and disperse monies raised for the purpose of making charitable and/or benevolent gifts or contributions to individuals or organizations if the board of education has approved the fund-raising activity and the dispersement. The monies deposited in the school activity fund which are raised by student fund raising activities are not public funds subject to the constitutional restrictions. *June 12, 1997 (AG Op. No. 97-6)*

Economic development is legitimate "public purpose" for which public funds may be expended. *Burkhardt v. City of Enid*, 771 P.2d 608 (Okla. 1989)

The provisions of Article 10, § 14 prohibit a person from displaying a bumper sticker on a public school district vehicle promoting a candidate for political office. *October 28, 1986 (AG Op. No. 86-22)*

To constitute a public purpose, purpose must have a public interest and must be performed by state in exercise of its governmental functions. *Veterans of Foreign Wars v. Childers*, 171 P.2d 618 (Okla. 1946)

Section 652.2 Pledge or Loan of Credit of State Prohibited - Exceptions.

A. Except as provided by this section, the credit of the State shall not be given, pledged, or loaned to any individual, company, corporation, or association, municipality, or political subdivision of the State, nor shall the State become an owner or stockholder in, nor make donation by gift, subscription to stock, by tax, or otherwise, to any company, association, or corporation.

* * * * *

E. Bonds issued by the board of education of any school district or public institutions of higher education may be guaranteed by the corpus of the permanent school fund, provided:

1. As to bonds issued by the board of education such bonds must be approved by election of the school district upon the question of issuing such bonds;

2. As to bonds issued by an institution within The Oklahoma State System of Higher Education such bonds are issued in accordance with all applicable provisions of law; and

3. Provisions shall be made by the Legislature to guarantee prompt reimbursement to the corpus of the permanent school fund for any payment from the fund on behalf of a school district or on behalf of an institution within The Oklahoma State System of Higher Education. The reimbursement shall include a reasonable rate of interest. The provisions of this paragraph regarding use of the permanent school fund for guarantee of bonds issued by an institution within The Oklahoma State System of Higher Education shall not be self-executing and the Legislature shall provide by law the procedure pursuant to which such obligations may be guaranteed and the procedures for repayments, if any, required to be made to the permanent school fund. **(Article 10, § 15, Okla. Const.)**

To be constitutional an Oklahoma economic development income tax credit must have three factors present: 1) it must promote a "public purpose" affecting the inhabitants of the state as a community, and not as individuals; 2) adequate consideration must be present; and 3) there must be adequate controls and safeguards in place. The mere investment of money into a company does not satisfy the three factors for a valid Oklahoma economic development income tax credit. When the three factors are present there is no gift and the Oklahoma economic development income tax credit does not violate Sections 14 and 15 of Article X of the Oklahoma Constitution. *(AG Op. No. 2010-16*)

An assertion of a constitutional violation that is undeveloped and unsupported by clear argument with authority is insufficient to demonstrate infirmity and will not be resolved by the court. *Fent v. Contingency Review Board*, 2007 OK 27

Any expenditure by a school district for meals, refreshments, membership dues, or other such expenses must be for a lawful "public purpose." *June 27, 2001 (AG Op. No. 01-30)*

A school district may use its school activity fund account to deposit and disperse monies raised for the purpose of making charitable and/or benevolent gifts or contributions to individuals or organizations if the board of education has approved the fund-raising activity and the dispersement. The monies deposited in the school activity fund which are raised by student fund raising activities are not public funds subject to the constitutional restrictions. *June 12, 1997 (AG Op. No. 97-6)*

This section prohibits a school district from paying a tenured teacher at the beginning of the month for services yet to be performed even though such payment is pursuant to a written contract. *July 24, 1984 (AG Op. No. 84-87)*

The principal of the permanent school fund can be used to guarantee bonds issued by school districts according to the conditions set forth in 70 O.S. §§ 201 et seq. Thus, bond guarantees issued by Commissioners of the Land Office are binding legal obligations which pledge the permanent school fund to guarantee bond issues of school districts. *November 8, 1996 (AG Op. No. 96-77)*

An indemnity agreement which is for an indefinite term and which is uncertain in amount may result in an obligation which is in excess of unencumbered funds and thus violative of Article X, § 15 of the Oklahoma Constitution. *June 27, 1996 (AG Op. No. 96-7)*

Section 653. (Omitted – not applicable to school districts.)

Note: See now Section 98.

Section 654. (Omitted – not applicable to school districts.)

Note: See now Section 98.

Section 655. (Omitted – not applicable to school districts.)

Note: See now Section 111.20.

Section 656. Amount to Be Issued.

Warrants and certificates of indebtedness may be issued to the amount of the estimate made and approved by the excise board for the current fiscal year or to the amount authorized for such purpose by a bond issue. **(62-476)**

School district warrants issued within the unexpended appropriation for that purpose within the same fiscal year are not rendered invalid because the fund is afterwards misapplied to the payment of warrants issued in a previous year. *Joint School District No. 1 v. State Nat. Bank of Woodward,* 67 P.2d 942 (Okla. 1937)

Section 657. (Omitted – not applicable to school districts.)

Note: See now Section 111.21.

Section 658. (Omitted – not applicable to school districts.)

Note: See now Section 111.22.

Section 659. (Omitted – not applicable to school districts.)

Note: See now Section 111.23.

Section 660. Violation - Punishment.

Any officer willfully or knowingly contracting, incurring, acknowledging, authorizing, allowing or approving any indebtedness, or any officer issuing, drawing, or attesting any warrant or certificate of indebtedness in excess of the estimate made and approved by the excise board for the purpose for such current fiscal year or in excess of the specific amount authorized for such purpose for such current fiscal year or in excess of the specific amount authorized for such purpose by a bond issue, or who violates any other provision of Section 471 et seq. of this title, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than One Thousand Dollars ($1,000.00) or imprisoned in the county jail for not to exceed one (1) year, or by both the fine and imprisonment, and shall forfeit and be removed from office pursuant to Section 1181 et seq. of Title 22 of the Oklahoma Statutes or Section 91 et. seq. of Title 51 of the Oklahoma Statutes. **(62-480)**

Section 661. (Omitted – not applicable to school districts.)

Note: See now Section 111.24.

Section 662. (Omitted – not applicable to school districts.)

Note: See now Section 111.25.

Section 663. Sinking Fund - Investment.

The Treasurer of the State of Oklahoma, the county treasurer in any county when authorized by the board of county commissioners, and the lawful treasurer of any city, town or board of education, when authorized so to do by the lawfully constituted governing body of such city, town, or board of education may invest the sinking funds in his custody in United States bonds, United States Treasury notes, United States Treasury certificates or Postal Savings certificates, to the payment of which the faith and credit of the United States is pledged by the terms of such bonds, notes or certificates, or in State bonds, Public Building Bonds, State Warrants or State Treasury notes of the State of Oklahoma issued under authority of legislative enactment, or in the bonds or judgments of courts of record of the particular and specific municipality whose sinking funds are to be invested, or in current warrants of his own registration, provided the securities so purchased mature prior to the time the money so invested is required by law to be on hand in cash for the purpose of meeting the bonded indebtedness of the state or the municipal subdivision thereof whose sinking funds are so invested, and further, provided the bonds of the particular municipality whose sinking funds are to be so invested or the current warrants of such treasurer's own registration, can be purchased at not to exceed par and accrued interest. If deemed advisable to invest the sinking funds in the custody of the county treasurer, or in the custody of the lawful treasurer of any city, town or board of education, in lawfully issued county, city, town, township, board of education, or dependent school district bonds issued by a municipal subdivision of the State of Oklahoma, other than the one whose sinking fund is proposed to be invested, or if deemed advisable to invest the sinking fund of such municipal subdivision in its own bonds at the market for more than par and accrued interest, then the county treasurer or the lawful treasurer of such city, town, or board of education, if authorized by the duly constituted governing board to whom he is by law required to render account, either at his own instigation or by the lawfully constituted attorney of such county, city, town or board of education, may file a duplicate application in writing in the district court, in which application he shall set forth the full nature and description of the securities which he proposed to purchase, together with the estimated value thereof, the aggregate amount thereof and the proposed price of purchase; and he shall further disclose in said application, the condition of the sinking fund account so proposed to be invested, and the bond, coupon and judgment indebtedness payable therefrom with maturities and accruals scheduled in detail. Thereupon it shall be the duty of the court clerk of such county to docket such application, without cost, upon the appearance docket of such district court as other civil actions; and it shall be the immediate duty of such court clerk to transmit the duplicate application, schedules, and exhibits to the district attorney who shall enter his appearance in such instance

on behalf of the public and who may, at the discretion of the court, require such further information by detailed exhibits, schedules or statistics as may seem advisable. Within three (3) days after the filing of such application, the judge of such district court shall enter an order setting such application for hearing, and directing the court clerk to give such notice to the public of such application and the date of hearing thereof as said district judge may deem proper for the protection of the public and the taxpayers of such county and/or the municipal subdivisions thereof, and, if such notice be directed to be had by publication in some newspaper named by the court, the expense thereof shall be borne out of any appropriation for legal expense of such county, city, town or board of education. It shall be the duty of the district attorney to file in said proceedings, in writing, at the date appointed for such hearing, a correct report setting forth the opinion of such district attorney as to the soundness of such investments and advisability thereof, the validity of such securities, and particularly whether or not the municipality issuing the same has a net bonded indebtedness in excess of five percent (5%) of the net assessed valuation thereof as last certified by the county assessor to its county excise board. Upon the date set for such hearing, any taxpayer shall have the right to appear in person, either with or without the aid of counsel, and make such protest or objection to such investment as he may deem proper for the protection of himself or the taxpayers of such county. Thereupon it shall be the duty of the district judge, informally and in open court to hear any and all evidence and protests, either in support of or opposition to said proposed investment, and at the close of such hearing, to enter an order with reference to such application for investment as may be found and determined by the court for the protection and best interest of the county or municipal subdivision thereof whose sinking funds are proposed to be invested, and to the best interest of the public and taxpayers thereof; and thereupon, such district court may, by journal entry of judgment entered and recorded in such proceedings, either authorize in whole or in part that such investment be made, or deny such application. **(62-541)**

Note: See also Section 64, Crediting of Investment Income.

Section 664. Apportionment of Interest - Sinking Fund.

On or before the last day of each month the State Treasurer and the treasurer of each county, city, town and board of education shall apportion and place to the credit of the sinking fund or sinking funds in his custody all interest earned and collected from the investment of such sinking funds, as provided in the first and foregoing section of this act; provided, that in counties, where invested securities have heretofore been purchased for the joint use and benefit of the several school districts and/or townships thereof, the amount so credited to each such sinking fund account shall bear the same ratio to the whole amount of interest so collected, as the amount of such investment credited to the sinking fund account of each such school district and/or township bears to the total amount so invested, in which last event the apportionment of such interest earnings shall be made immediately prior to the 30th day of June of each year. **(62-544)**

Note: See also Section 64, Crediting of Investment Income.

Section 664.1. (Omitted)

Section 665. Payment of Personnel by Payroll Purchase Order.

A. The regular personnel of any agency of any county, city, town, school district or board of education may be certified to the governing board thereof for payment by a payroll purchase order in the manner herein provided. For the purpose of this section, regular personnel is hereby defined as those persons whose appointment or employment or election, whether on full or part-time basis, together with the rate of pay unless the same be fixed by law, has been confirmed or otherwise fixed by the governing board, in each instance, and entered in its journal of proceedings or by separate contract of employment properly authenticated and filed of record; provided, for school districts only, regular personnel may be defined as including persons who are employed on a temporary or occasional basis.

B. For each pay period, the duly elected or appointed head of any department, office, sub-office, district, station or school, may execute on behalf of himself and his subordinates, a payroll statement, itemizing in detail the names of such persons, nature of employment or service, rate of pay each, hours worked, and dates of service within the payroll period if less than a full payroll period. This statement shall be verified by affidavit as to:

1. Subordinate relationship of all persons named, other than himself, to be affiant;

2. Record of employment or contract relationship of all persons named;

3. Services performed under direct supervision.

The form of affidavit shall be prepared by the State Auditor and Inspector, and shall provide for entry therein by words, and figures, as to the number of persons certified to in such payroll statement and affidavit.

The statement and affidavit shall be deemed to include the approval of departmental head and receipt acknowledging services of subordinate, where such is required by law; and no further statements for that purpose shall be required. The subordinate employees named therein shall not be required to sign the payroll statement and affidavit unless the governing board, by official order, so requires, in which event, each may sign opposite his own name. Affidavit to any payroll statement may be verified by any officer authorized to take acknowledgments, or by the clerk of the county, city, town, school district or board of education, as the case may be.

C. The payroll statement and affidavit shall be forwarded to the clerk of the county, city, town, school district or board of education, and shall become a permanent part of the financial records of the agency. The total payroll amounts from the payroll statement and affidavit, and the amounts charged to each appropriation and fund of the agency, shall be listed or estimated on the payroll purchase order for consideration and payment by the governing board. The amount to be paid pursuant to a payroll purchase order may be encumbered as of the date the purchase order is considered by the governing board for payment or as of the date payroll payments are made.

D. The encumbering officer or clerk of a municipality, county or school may authorize payment of the following taxes and invoices as they become due without a purchase order or further approval of the governing board:

1. Taxes, including, but not limited to, withholding, social security or unemployment compensation taxes;

2. Retirement or pension fund payments or contributions which are payable pursuant to a resolution, ordinance, contract or other appropriate agreement which has been approved by the governing board; and

3. Payments for insurance or related coverages, including, but not limited to, accident, health or life, workers' compensation, or any other property, vehicle, marine, surety, liability or casualty coverages, which are payable under a valid contract, policy or other appropriate agreement which has been approved by the governing board. **(62-304.1)**

Section 666. Assignment of Salaries or Wages.

Assignment of salary or wage earnings in such instance shall be by separate instrument, and by affidavit. It shall be unlawful to issue or authorize the issuance of a municipal warrant for salary or wages to any person other than the person earning the same, or to his assignee or the executor or administrator of his estate or to any person entitled to child support payments pursuant to an income assignment proceeding or a garnishment proceeding. Except as provided by income assignment procedures for the collection of child support, no assignment of a part of salary or wages shall be made, and any assignment of salary or wages before the same has been earned shall be a nullity and shall avail the assignee nothing. **(62-304.2)**

Section 667. Money Due For Property, Royalty or Services - Payment and Crediting.

When any money is due any county, city, town or school district in the state from sale, lease or rental of any public property, or royalty, or for compensation for service of public employees or other purpose, it shall be paid over to the lawful treasurer thereof.

The governing board shall have authority to direct by written resolution duly entered in the minutes of its meeting at the time such money is received or prior thereto that such money shall be credited to the fund account from which such property was derived or from which payment has been or will be made for such services rendered or other purposes.

If there be no resolution by the governing board directing the disposition of the money received as contemplated herein it shall be the duty of the treasurer to credit such money so received to the general fund.

The governing board shall have authority to direct that a fund derived for such sources as herein contemplated, where applicable to a public utility, be created and used to repair, relocate or replace any utility or part thereof new or hereafter existing. **(62-335)**

Proceeds of sale of school building that was constructed with borrowed money must either be used for the purpose for which the money was borrowed or placed in the district's sinking fund for payment of the outstanding bonded indebtedness. *AG Op. October 25, 1965*

Income and rentals from teacherage should be paid over to school district treasurer as provided by this Section. *AG Op. December 13, 1961*

Proceeds of sale of building constructed with bond money, if not used to construct another building, should be placed in the sinking fund to retire debt that was incurred, and remainder should be placed in general fund. *AG Op. June 2, 1961*

Section 668. (Omitted – not applicable to school districts.)

Note: See now Section 111.28.

Section 669. Public Utility Billings.

The governing board of a municipality shall be authorized to allow and pay the regular periodic billings of any municipal utility or of any public utility whose rates are fixed by, and are subject to the approval of, the Oklahoma Corporation Commission or any other public regulatory body or board of any utility cooperative for services furnished by the utility to the municipality without the issuance of a purchase order and filing of an invoice by such municipal or public utility, provided, further, that no municipal or public utility shall attach a late charge or deny a discount on any bill until a thirty-day period has lapsed from the receipt of the bill. **(62-305.1)**

Section 670. Terms Used in Preceding Section Defined.

The term "municipality" as used herein shall include any county, school district, city or town, and the term "governing board" shall include the board of county commissioners of a county, the board of education or district board of any school district, the city council of a city, and the board of trustees of a town. **(62-305.2)**

Section 671. Amount of Ad Valorem Tax.

(a) Except as herein otherwise provided, the total taxes for all purposes on ad valorem basis shall not exceed, in any taxable year, fifteen (15) mills on the dollar, no less than five (5) mills of which is hereby apportioned for school district purposes, the remainder to be apportioned between county, city, town and school district, by the County Excise Board, until such time as a regular apportionment thereof is otherwise provided for by the Legislature.

No ad valorem tax shall be levied for State purposes, nor shall any part of the proceeds of any ad valorem tax levy upon any kind of property in this State be used for State purposes.

(b) A tax of four (4) mills on the dollar valuation of all taxable property in the county shall be levied annually in each county of the State for school purposes and, until otherwise provided by law, the proceeds thereof shall be apportioned to the school districts of the county by the County Treasurer on the basis of the legal average daily attendance for the preceding school year as certified by the State Board of Education. Provided that in case a school district lies in more than one county, such district shall be deemed a school district of the county having the greater part of the area comprising such district, unless otherwise provided by law, and shall be entitled to participate in the proceeds of such tax on the same basis as districts lying wholly within such county but revenue from such tax on the assessed valuation of the district in other counties shall, when collected, be transmitted to the County Treasurer of such county having the greater part of the area comprising the district, unless otherwise provided by law, and be apportioned as hereinbefore provided for the proceeds of such tax on the assessed valuation of such county. Not to exceed seventy-five per centum (75%) of the amount received by a school district from the proceeds of such county levy in any year shall be required to finance the State guaranteed program of such district.

(c) Upon certification of a need therefor by the board of education of any school district an additional tax of not to exceed fifteen (15) mills on the dollar valuation of all taxable property in the district shall be levied for the benefit of the schools of such district.

(d) In addition to the levies hereinbefore authorized, any school district may make an emergency levy for the benefit of the schools of such district, in an amount not to exceed five (5) mills on the dollar valuation of the taxable

property in such district when approved by a majority of the electors of the district voting on the question at an election called for such purpose. This emergency levy shall provide only sufficient additional revenue to meet the needs of the district each fiscal year as determined by the board of such district and must be approved by a majority of the electors voting on said question at such an election for each fiscal year.

(d-1) In addition to the levies hereinbefore authorized, any school district may make a local support levy for the benefit of the schools of such district, in an amount not to exceed ten (10) mills on the dollar valuation of the taxable property in such district, when approved by a majority of the ad valorem tax-paying voters voting on said question at an election for each fiscal year called for such purposes. This local support levy shall provide only sufficient additional revenue to meet the needs of the district for each such fiscal year as determined by the board of such district; provided, an elector desiring to vote upon such local support levy must present an ad valorem tax receipt for the year immediately preceding before being issued a ballot, or sign a sworn affidavit certifying the fact of such payment.

(e) The amount of revenue from school district ad valorem taxes levied under (a) and (c) of this Section which any school district may be required to use to finance its State guaranteed program shall not be in excess of its share, based upon its relative taxpaying ability as may be defined by law, of an amount equivalent to the net proceeds from a fifteen (15) mill tax levy on the aggregate net assessed valuation of the State; but until such relative taxpaying ability is defined by the Legislature, the amount of revenue from such taxes which any school district may be required to use to finance its State guaranteed program shall not be in excess of the net proceeds from an ad valorem tax levy of fifteen (15) mills on the dollar net assessed valuation of the district. No part of the proceeds from any ad valorem levy for emergency levy and local support levy under (d) and (d-1) of this Section shall be required to finance the State guaranteed program of such district.

Nothing in the amendments to the Constitution incorporated herein shall be construed to amend, alter or supersede the present application of Article XII-A, Sections 1 and 2 of the Oklahoma Constitution. **(Art. X, § 9, Okla. Const.)**

Provisions limiting right to vote on local support levy to property taxpayers violate Equal Protection Clause of the 14th Amendment to the U.S. Constitution; and all qualified electors are eligible to vote on the levy. *AG Op. December 14, 1972*

School district may hold special election on 10 mill local support levy in July before district's budget for the year is filed. *AG Op. July 6, 1967*

Legislature may allow school district more than 5 mills over regular 15 mills authorized by Section 9, Article 10, Oklahoma Constitution. *AG Op. November 2, 1962*

Building fund levy and excess levy must be voted upon separately. *AG Op. September 8, 1939*

When a school district ad valorem levy exceeds the constitutional limit of levy, the excessive portion thereof will be stricken on protest. *Magnolia Petroleum Co. v. Jefferson County Excise Board*, 90 P.2d 648 (Okla. 1939)

A county excise board may classify school districts in accordance with constitutional and statutory rules of classification for the purpose of the allocation of the fifteen mills provided by the Constitution for the support of counties, cities, towns, and school districts. *AG Op. September 9, 1938*

Ad valorem tax levy of school district which was spread and extended in Tulsa County, and which met all requirements of legality of levy in Tulsa County and did not exceed limit of levy allocated to joint school district by excise board of that county, held not subject to protest under Section 12306, O.S. 1931. (68-332) because levy exceeded limit fixed by allocation order of excise board of adjoining county in which small part of territory of joint school district was located. *Tulsa County Excise Board v. Texas-Empire Pipe Line Co.*, 68 P.2d 861 (Okla. 1937)

School district held without right to exceed limit of tax levy fixed by general order of county excise board because no levy was made for town within bounds of school district, since limit of levy was fixed by general order of county excise board. *Tulsa County Excise Board v. Texas-Empire Pipe Line Co.*, 68 P.2d 861 (Okla. 1937)

An apportionment or allocation of limit of levy of ad valorem tax made by the excise board under authority of Section 9, Art.10 of the Constitution, is not arbitrary, capricious, or void merely because it operates to permit some school districts to levy greater amount than other districts with a greater scholastic enumeration and the same or less valuation, if such result is made necessary or necessarily follows by reason of the necessary and proper apportionments to the county and to cities and towns. *Tulsa County Excise Board v. St. Louis-San Francisco Ry. Co.*, 68 P.2d 868 (Okla. 1937)

Apportionment of fifteen mills by excise board according to the following classification is reasonable: County, six mills; cities, four mills; school districts containing incorporated towns, five mills; school districts containing unincorporated towns, nine mills. *AG Op. September 15, 1937*

The county excise board is not prohibited from basing its apportionment upon a reasonable classification of school districts according to assessed valuation of taxable property thereof, but any apportionment so made must apply generally as to each classification. *Lowden v. Stephens County Excise Board*, 57 P.2d 598 (Okla. 1936)

The county excise boards in apportioning the millage rate of levy under authority granted by Section 9, Article 10, of the Constitution, as amended in 1933, must be governed by the constitutional and statutory rules of classification for purposes of taxation, and the apportionment so made must apply generally as to each classification. *Protest of St. Louis-San Francisco Ry. Co*., 42 P.2d 537 (Okla. 1935)

Under the provisions of Section 9, Article 10, of the Constitution, as amended by adoption by vote of the people on August 15, 1933, the limitations as to tax levies by municipal subdivisions of the state were abrogated and authority was vested in the excise board of the several counties to apportion between county, city, town, and school district the maximum of 15 mills on the dollar until such time as the regular apportionment is otherwise provided for by the Legislature. *Atchison, T. & S.F. Ry. Co. V. Excise Board of Washington County*, 35 P.2d 274 (Okla. 1934)

Section 672. Area School Districts - Technology Center Schools - Tax Levy.

A. Technology center school districts for technology center schools may be established and a levy of not to exceed five (5) mills on the dollar valuation of the taxable property in any technology center school district so established may be made annually, for the district, when the levy is approved by a majority of the electors of the technology center school district, voting on the question at an election called for that purpose. The levy shall be in addition to all other levies authorized by this Constitution, and when approved, shall be made each fiscal year thereafter until repealed by a majority of the electors of the technology center school district, voting on the question at an election called for that purpose. Any technology center school district so established shall be considered as a school district for the purposes of Sections 10 and 26 of this Article. The administrative control and direction of the technology center school district shall be vested in a school board which shall be constituted and empowered as provided for by law for school boards of independent school districts. Provisions of other subsections of this section notwithstanding, in any case where a college technology center vocational-technical school district recognized pursuant to Section 4423 of Title 70 of the Oklahoma Statutes and established by vote of the people after December 31, 1968, overlaps and includes territory which is included within the district of a technology center school established as prescribed by the State Board of Career and Technology Education pursuant to Section 14-108 of Title 70 of the Oklahoma Statutes, only the levies made by the college technology center school district shall be applied to said overlap territory, and revenues from the overlap area collected pursuant to any incentive levy so made shall be apportioned one-half to the college technology center school district making the levy and one-half to the overlapped technology center school district. In any case where a college technology center school district recognized pursuant to Section 4420.1 of Title 70 of the Oklahoma Statutes overlaps and includes territory which is included within the district of a technology center school established as prescribed by the State Board of Career and Technology Education pursuant to Section 14-108 of Title 70 of the Oklahoma Statutes, said overlap territory shall be subject to all levies of both kinds of districts that are approved by a majority of the electors.

B. In addition to any other levies authorized by this section, a technology center school district may make a local incentive levy for the benefit of the technology center school district in an amount not to exceed five (5) mills on the dollar valuation of the taxable property in the technology center school district when approved by a majority of those registered voters of the technology center school district voting on the question at an election called for that purpose. Except as otherwise provided, this levy, when approved, shall be made each fiscal year thereafter until repealed by a majority of the electors of the technology center school district voting on the question at an election called for that purpose. A technology center school district which has previously failed to approve a local incentive levy at two consecutive elections held between January 1, 1994 and May 31, 1994 may make a local incentive levy for the benefit of the technology center school district only if approved by a majority of the registered voters of the area school district voting on said question at such an election for each fiscal year. If a majority of voters approve the local incentive levy for three (3) consecutive years, the levy approved on the third year shall be made each fiscal year thereafter until repealed by a majority of the electors of the technology center school district voting on the question at an election called for that purpose.

C. Upon the establishment of technology center school districts, such districts are authorized to become indebted separate and apart from the indebtedness of any school district included in the technology center school district up to five percent (5%) of the net valuation of taxable property within the technology center school district for capital improvements, including purchasing sites and constructing, purchasing, improving, and equipping real property and buildings when the indebtedness is approved by a majority of the electors of the technology center school district voting on the question in an election called for that purpose.

D. Until otherwise provided for by law, technology center school districts and the government thereof shall be established in accordance with criteria and procedures prescribed by the State Board of Career and Technology Education.

E. The Legislature may alter, amend, delete, or add to the provisions of this section by law. **(Art. 10, § 9B, Okla. Const.)**

> Voters' approval of incentive levy of vocational-technical school district was not illegal on grounds that it subjected taxpayers, who lived in area which overlapped with portion of another school district, to double taxation; vocational-technical school had implemented incentive levy and other district had not. *Protest of 1990-1991 Budget of Vo-Tech No. 22*, 848 P.2d 30 (Okla. App. 1992)

Section 673. Increase for Erecting Public Buildings.

A. For the purpose of erecting public buildings in counties or cities, or for the purpose of raising money for a building fund for a school district which may be used for erecting, remodeling or repairing school buildings, and for purchasing furniture, the rates of taxation herein limited may be increased, when the rate of such increase and the purpose for which it is intended shall have been submitted to a vote of the people, and a majority of the qualified voters of such county, city, or school district, voting at such election, shall vote therefor: Provided, that such increase shall not exceed five (5) mills on the dollar of the assessed value of the taxable property in such county, city, or school district.

B. A school district may upon approval by a majority of the electors of the district voting on the question make the ad valorem levy for a building fund under subsection A of this section permanent. If the question is approved, the levy in the amount approved as required by this section, shall be made each fiscal year thereafter until such time as a majority of the electors of the district voting on the question rescind the making of the levy permanent. An election on such question shall be held at such time as a petition is signed by ten percent (10%) of the school district electors or a recommendation by the board of education of the school district is made asking that the levies be made each fiscal year.
(Art. 10, § 10, Okla. Const.)

Note: See Section 21 herein.

> There is no express or implied limitations upon the power of a school board to call a second election on the question of a building-fund levy after the failure of the question at the general election. *Protest Against Tax Levy of Ardmore Independent School No. 19*, 1998 OK 43, 959 P.2d 580.

> When independent school district votes to impose building fund millage under Article X, §10, there is no violation of the Equal Protection Clause even though building fund millages are not contributed to by property owners in elementary school district. *May 15, 1996. (AG Op. No. 95-83)*

Section 674. Budget for County-Wide Visual Inspection Program.

A. Each county assessor in budgets submitted to the county excise board or county budget board shall make adequate provision to effect countywide visual inspections of real property during the four-year cycle.

B. Each jurisdiction within a county which receives revenue from an ad valorem mill rate shall receive a copy of the budget for the countywide visual inspection program for that county. The county excise board or county budget board shall notify all such jurisdictions of any meetings at which discussion or action on the budget for the comprehensive program of visual inspections is or may be on the agenda. Such jurisdictions shall have the opportunity to appear before the county excise board or the county budget board, prior to approval of such budgets, to provide testimony, comments, information and documentation concerning the budgets submitted by the county assessor pursuant to subsection A of this section.

C. The several county excise and budget boards, in passing upon budgets submitted by the several assessors, shall authorize and levy amounts which will suffice to carry out the countywide visual inspection program as approved by the Oklahoma Tax Commission under Section 2820 of this title. Such amounts shall be separate from other funds allocated to the office of county assessor and shall be used exclusively to carry out the countywide visual inspection program. The allocation of such amounts shall not serve to decrease other funds allocated to the office of county assessor by the county excise board or the county budget board. Any disputes as to the amount authorized to carry out

the countywide visual inspection program shall be resolved by the county excise board; provided, the Oklahoma Tax Commission shall take such action as may be necessary to ensure that such amounts are used exclusively to carry out the countywide visual inspection program and that the allocation of such amounts does not serve to decrease other funds allocated to the office of county assessor. **(68-2822)**

According to this provision of law, the excise board has discretion in resolving funding disputes concerning the visual inspection budget. *Tulsa County Budget Board v. Tulsa County Excise Board*, 2003 OK 103, 81 P.3d 662.

Tax recipient jurisdictions which pay the cost of the comprehensive visual inspection program for taxable real property are provided an opportunity to protest the amount allocated to the visual inspection program before the county excise board. However, tax recipient jurisdictions are not allowed to amend the budget approved by the county excise board. *August 10, 1999 (AG Op. No. 99-46)*

Section 675. Ad Valorem Tax Revaluation Costs Apportioned.

A. For each fiscal year, the cost of the comprehensive program of visual inspections for real property and the cost of physical inspections of personal property shall be paid by appropriate warrants from those who receive the revenues of the mill rates levied on the property of the county as prescribed by this section. The county assessor shall prepare a budget for the comprehensive program of visual inspections for real property and the cost of physical inspections of personal property and file such budget with the county excise board or county budget board.

B. The county excise board or county budget board shall apportion such cost among the various recipients of revenues from the mill rates levied, including the county, all cities and towns, all school districts, all sinking funds of such recipients, and all jurisdictions specified in subsection D of this section, in the ratio which each recipient's total tax collection authorized from its mill rates levied for the preceding year bears to the total tax collection authorized of all recipients from all their mill rates levied for the preceding year. The cost shall include only those expenses directly attributable to the visual inspection program and those expenses directly attributable to physical inspections of personal property and shall not include any expenses of the office of the county assessor which, in the judgment of the county excise board or county budget board, are expenses of county assessor's office which would exist in the absence of such program or in the absence of physical inspection of personal property. Expenses that are attributable both to the visual inspection program and physical inspection of personal property, and which would exist in the absence of such program or inspection, including but not limited to salaries, employee benefits, office supplies and equipment, may be prorated; provided, no portion of the salary of the county assessor shall be included in such costs.

C. Upon receipt of the billing statement provided for in subsections D and E of this section by each such recipient, the mill rates to be established by the board for each such recipient for the current year shall include and be based upon such amounts and shall constitute an appropriation of such amounts to the county assessor for expenditure for the expenses of administering the visual inspection program each year. In the case of a sinking fund of a recipient, if, after approving its budget, the governing body of a recipient notifies the board in writing that there are no funds appropriated to pay the amount of the billing statement for such sinking fund, such notice shall constitute conclusive evidence of a financial obligation of the recipient as it relates to such sinking fund. The board may seek a judgment for the amount of such obligation and court costs in the district court of the county in which the board is located.

D. The county assessor shall render a statement to each of the jurisdictions within the county which receive revenue from an ad valorem mill rate. Such statement shall include the following information:

1. The current fiscal year in which the charge has been incorporated in the jurisdiction's budget;

2. All jurisdictions receiving statements from the county assessor, the mill rate for each in the previous year, and the proportion of each to the combined mill rates of all jurisdictions within the county for the previous year. The proportions specified in this paragraph should equal a total of one hundred percent (100%);

3. The charge for the entity receiving the statement as well as the charge for each jurisdiction of the county based upon the proportions specified in paragraph 2 of this subsection. The total of all current year charges for all county jurisdictions should equal the total visual inspection program budget for the current fiscal year;

4. The amount of the total budget for the office of the county assessor and the percentage that visual inspection program expenses are of such total budget; and

5. A copy of the County Budget Visual Inspection Account and a brief description of the areas to be visually inspected for the current fiscal year, consistent with the plan on file with the Oklahoma Tax Commission pursuant to Section 2820 of this title.

E. In any county wherein any jurisdiction's budget and mill rates are not subject to review and approval by the county excise board, the county assessor shall nevertheless include any such jurisdiction in the calculations required under subsection A of this section. The county assessor shall also render a billing statement to any such jurisdiction showing the charge for the current fiscal year due from the jurisdiction. Such billing statement shall also show all the information specified in subsection D of this section. Such billing statement shall clearly indicate that the charge payable by the jurisdiction is due and payable by December 31 of the current fiscal year. **(68-2823)**

> Cost of visual inspection program shall include only those expenses directly attributable to the visual inspection program. However, there is no specific procedure or formula which must be used in determining what expenses are attributable to the visual inspection program. *August 10, 1999 (AG Op. No. 99-46)*

Section 675.1. Boundaries of School Districts.

The county assessor shall maintain and use the current boundary descriptions of each and every school district or part of a district in the county furnished by the State Department of Education pursuant to Section 4-104 of Title 70 of the Oklahoma Statutes. **(68-2815.2)**

Section 676. "Estimate Made and Approved" - Defined.

The term "estimate made and approved" as used herein, is defined to mean the itemized statement of the estimated needs of a municipality for its current expenses for the ensuing fiscal year, as approved and fixed by the excise board or by vote of the municipality, adding thereto the amount necessary to create a sinking fund to meet maturing bonds, judgments and interest coupons, but the amount or limit to which warrants and certificates of indebtedness may be issued, shall not include the ten percent (10%) to be added to the estimate for delinquent taxes. **(62-473)**

Section 677. "Appropriation" - Defined.

The term "appropriation" as used in Sections 2482-24113** of this Code is hereby declared to be synonymous with "estimate made and approved," as defined in 62 O.S. 1961, Sec. 473, and the provisions, requirements, limitations and penalty of 62 O.S. 1961, Secs. 471 through 480, are hereby specifically declared to extend to and embrace "appropriations" as herein defined. **(68-3001)** (** now 3001 to 3033)

Section 678. Time for Making Estimates.

A. Notwithstanding the provisions of the School District Budget Act, each board of county commissioners and the board of education of each school district, shall, prior to October 1 of each year, make, in writing, a financial statement, showing the true fiscal condition of their respective political subdivisions as of the close of the previous fiscal year ended June 30th, and shall make a written itemized statement of estimated needs and probable income from all sources including ad valorem tax for the current fiscal year. Such financial statement shall be supported by schedules or exhibits showing, by classes, the amount of all receipts and disbursements, and shall be sworn to as being true and correct. The statement of estimated needs shall be itemized so as to show, by classes: first, the several amounts necessary for the current expenses of the political subdivision and each officer and department thereof as submitted in compliance with the provisions of Section 3004 of this title; second, the amount required by law to be provided for sinking fund purposes; third, the probable income that will be received from all sources, including interest income and ad valorem taxes; and shall be detailed in form and amount so as to disclose the several items for which the excise board is authorized and required, by this article, to approve estimates and make appropriations.

B. Each municipality that does not prepare an annual audit pursuant to Section 17-105 of Title 11 of the Oklahoma Statutes shall make a financial statement as required by this section. Every municipality shall adopt a budget, which shall contain estimates of expenditures and revenues, including probable income by source, for the budget year; provided, that all municipalities may use estimated fund balances if final certified fund balances are not available. The budget shall be in a format similar to the estimate of needs or, at the municipality's discretion, to Sections 17-207 and 17-212 through 17-214 of Title 11 of the Oklahoma Statutes. This section shall not apply to any municipality that has opted to prepare a budget pursuant to the Municipal Budget Act.

C. Each budget and each financial statement and estimate of needs for each county, city, incorporated town, or school district, as prepared in accordance with this section, shall be published in one issue in some legally qualified newspaper published in such political subdivision. If there be no such newspaper published in such political subdivision, such statement and estimate shall be so published in some legally qualified newspaper of general circulation therein; and such publication shall be made, in each instance, by the board or authority making the estimate.

D. The financial statements and estimates of all counties shall be filed with the county excise board on or before August 17 of each year; and the financial statements and budgets of all incorporated towns shall be filed with the county excise board on or before August 22 of each year; and the financial statements and budgets of all cities shall be filed with the county excise board on or before August 27 of each year; and the financial statements and estimates of all school districts shall be filed with the county excise board on or before October 1 of each year. Said financial statements and estimates shall have attached thereto an affidavit showing the publication thereof as required herein, or they may be filed and the said affidavit attached thereto at any time within five (5) days after the filing thereof. **(68-3002)**

School Board may employ skilled persons to help prepare annual budget. *AG Op. June 19, 1940*

School district's estimate of needs should be made by school district board, not by county excise board. *AG Op. July 19, 1939*

The county excise board may properly correct or change a budget after it has been filed with the State Auditor, after a protest has been filed, or after the expiration of the forty day protest period, but not after the appropriation and levy becomes final and the tax has been spread on the tax rolls and collection thereof commenced. *AG Op. July 18, 1936*

Section 679. Estimate of Non-Tax Income for Budget - Federal Funds.

A. It shall be unlawful for the governing board of any county, city, town, school district, or other governmental subdivision of this state, in preparation of its budget for any fiscal year, to estimate as probable income from sources other than ad valorem tax of such governmental subdivision of the state and other than any excise or other tax assessed by legislative enactment and distributed in lieu of ad valorem taxes, any revenue from nonrecurrent sources, regardless of such collections in the immediately preceding fiscal year to be derived from or the result of sales, forfeitures, penalties, gifts, federal aid allotments of every kind, windfalls, seizures, sheriff's sales, court actions whether civil or criminal, injunctions or protests won or released by dismissal, or from any other such source not normally recurrent year after year and so made recurrent by legislative enactment. Provided, that upon a finding by the governing board of any county, city, town, school district, or other governmental subdivision of this state, that a source of income, although nonrecurrent, will actually be available for the next ensuing fiscal year, the board may include such income in its estimate of probable income. Provided that shared revenues of the federal government, if ascertainable, shall be allowed to be included in the estimates. It shall also be unlawful for any excise board to approve or require the same, or for any supervisory state board, commission, or officer, or for any agent or employee of either thereof to countenance, approve, or require the same or to diminish in any degree the distribution or allotment of state revenues or appropriations by reason of such collections in a prior year or prospect of such collections in the ensuing year; nor shall any revenue received by a school district from gross production taxes during the immediately preceding fiscal year, which was payable to such district in another year or years, be considered as minimum program income of such district for state aid purposes. The provisions of Section 21 of Title 21 of the Oklahoma Statutes shall be applicable where the foregoing prohibitions are disregarded. Revenue received by a school district during the immediately preceding year, which was earned by, or which was payable to, such school district in another year or years, shall not be considered as minimum program income of such district for state aid purposes.

B. All funds received by counties, cities, towns, or other subdivisions of government in the State of Oklahoma, hereinafter referred to as the recipient government, from the federal government pursuant to the distribution of funds authorized by the state shall be deposited in the treasury of the recipient government in a fund which shall be recorded and accounted for separately and apart from all other funds. Principal and interest received from investments of the federal monies, proceeds from the sale of assets purchased from the federal monies and other miscellaneous income derived from the direct operation of the federal monies may be deposited in the fund from which the federal monies were deposited if required by the federal government or by the governing board of the recipient government.

The unappropriated cash balance on hand may be appropriated as needed upon the request of the governing board of the recipient government and approval by the county excise board, provided, if the governing board of the recipient government determines the need to do so, it may estimate the amount remaining to be collected from its entitlement from federal funds during the remainder of its fiscal year and include such estimate in its request for appropriations.

The estimate shall not exceed the amount of the entitlement which is to be received during the remainder of the recipient government's fiscal year or, if the amount of the entitlement has not been certified, ninety percent (90%) of such funds received during a corresponding period of the previous fiscal year; provided that if the entitlement is less than that estimated or if the entitlement to be collected during the recipient government's fiscal year, in addition to the unappropriated cash balance, is reduced below the amount appropriated for the fiscal year, the governing board of the recipient government shall request the county excise board for an adequate reduction of appropriations in the fund.

All disbursements made from the fund in which federal monies are deposited shall be made in the same manner as those made from the general fund of the recipient government; provided that, no warrants shall be drawn on the fund unless sufficient monies are available to pay the warrants.

All forms and procedures necessary for the effective operation of this act shall be prescribed by the office of the State Auditor and Inspector.

C. All monies distributed by the federal government and received by any state agency, board, or commission to administer and distribute to counties, cities, towns, or other subdivisions of the government in the State of Oklahoma, hereinafter referred to as the recipient government, that do not follow procedures in subsection B of this section may utilize the letter of commitment appropriation process as specified in this subsection. The recipient government shall receive approval for the program as required by the agency, board, or commission administering the program and by the federal government, if required. Once approved, the state agency, board or commission may authorize a letter of commitment of federal monies available to the recipient government. The Excise Board may approve an appropriation in the amount of the letter of commitment. Each recipient government may establish a separate appropriation within a special revenue fund designated for federal monies. The recipient government may encumber funds in an amount not to exceed the sum of the total letter of commitment, which is a binding commitment of funding which the recipient government will receive for the project or projects eligible for such federal funding. The encumbrance of funds authorized by this section shall be made in accordance with procedures prescribed by the State Auditor and Inspector and shall be administered in accordance with rules and regulations concerning such distribution adopted by the federal government and the state agency, board, or commission. Any expenditure incurred by the recipient government using the letter of commitment appropriation process and disallowed by the federal government or state agency, board, or commission administering the funds shall be paid by the recipient government. **(68-3003)**

Section 679.1. (Omitted – not applicable to school districts.)

Section 680. Apportionment of Millage.

A. The county treasurer shall in all cases, except those provided for in subsection B of this section, where taxes are a lien upon real property and are unpaid on the first day of April of any year proceed, as hereinafter provided, to advertise and sell such real estate for such taxes, special assessments and costs, and shall not be bound before so doing to proceed to collect by sale all personal taxes on personal property which are by this Code made a lien on realty, but shall include such personal tax with that due on the realty, and shall sell the realty for all of said taxes and special assessments.

B. In counties with a population in excess of one hundred thousand (100,000) persons according to the most recent federal decennial census, the county treasurer shall not conduct a tax sale of such real estate where taxes are a lien upon real property if the following conditions are met:

1. The real property contains a single-family residential dwelling;

2. The individual residing on the property is sixty-five (65) years of age or older and owes the taxes due on the real property;

3. The real property is not currently being used as rental property;

4. The individual living on the property has an annual income that does not exceed the HHS Poverty Guidelines as established each year by the United States Department of Health and Human Services that are published in the Federal Register and in effect at the time that the proposed tax sale is to take place; and

5. The fair market value of the real property as reflected on the tax rolls in the office of the county assessor does not exceed One Hundred Twenty-five Thousand Dollars ($125,000.00).

C. It shall be the duty of the individual owning property subject to the provisions of subsection B of this section to make application to the county treasurer for an exemption from a tax sale no later than sixty (60) days prior to the date the property is scheduled to be sold. It shall also be the duty of the individual to provide evidence to the county treasurer that the individual meets the financial requirements outlined in paragraph 4 of subsection B of this section to qualify for the exemption. Any individual claiming the exemption provided in this section shall establish eligibility for the exemption each year the exemption is claimed.

D. Taxes, interest and penalties will continue to accrue while the exemption is claimed. The exemption from sale of property described in this section shall no longer be applicable and the county treasurer shall proceed with the sale of such real estate if any of the conditions prescribed in this section are no longer met.

E. Every notice of tax sale or tax resale shall contain language approved by the Office of the State Auditor and Inspector informing the taxpayer of the provisions of this section. **(68-3105)**

Section 681. Excise Board to Make Estimates.

Should any municipality fail to make and submit an estimate as herein provided, the county excise board shall have authority to make an appropriation for current expense and sinking fund purposes and make such levy therefore as it may find necessary to meet the probable needs of such municipality, provided that no such estimate shall be approved until the same shall have been by the county excise board advertised in like manner to items that shall be added to or be increased in an estimate. **(68-3016)**

Section 682. Certifying Appropriation - Warrants in Excess of Prohibited.

The secretary of the excise board shall immediately certify each appropriation as made by excise board to the clerk or other issuing officer of the municipality for which the same is made. The several items of the estimate as made and approved by the excise board for each fiscal year shall constitute and are hereby declared to be an appropriation of funds for the several and specific purposes named in such estimate, and the appropriations thus made shall not be used for any other fiscal year or purposes whatsoever, except as provided in the preceding section. Each clerk or other issuing officer shall open and keep an account for the amount of each item of appropriation, showing the purpose for which the same is appropriated, and the date, number, and amount of each warrant thereon. No warrant or certificate of indebtedness in any form shall be issued, approved, signed or attested, on or against any appropriation for a purpose other than that for which the said item of appropriation was made, or in excess of the amount thereof. **(68-3019)**

> Encumbrance ledger which reflected that total encumbrances that were nearly $60,000 more than original amount appropriated did not prove "warrant or certificate of indebtedness" was issued in excess of amount appropriated. *Patrick v. State Board of Education*, 842 P.2d 767 (Okla. App. 1992)

Section 683. Temporary Appropriations.

A. The excise boards of the various counties in the state may convene at any time after the beginning of any fiscal year, upon call of the chairman of the board, for the purpose of approving temporary appropriations for the counties, cities, school districts and other municipal subdivisions of the state. Whenever the governing board of any such county, city, school district or other municipal subdivision of the state shall present to the excise board of such county or of the county in which any such city, school district or other municipal subdivision is located in whole or in part, a verified application showing that the needs of such county, city, school district or other municipal subdivision so require, such excise board may make temporary appropriations for lawful current expenses of such county, city, school district or other municipal subdivision.

B. Warrants or checks may be drawn against such temporary appropriations pending action by the excise board upon the annual estimate of needs and budget of such county, city, school district or other municipal subdivision for such fiscal year. The amount which may be appropriated by such temporary appropriations shall in no event exceed the entire amount which the governing board, making the application, estimates will be available for the entire fiscal year for each purpose for which a temporary appropriation is requested; provided, however, the limitation on appropriations and any requirement for request or approval of temporary appropriations shall not apply to any city or

town if the revenue from the ad valorem tax to the municipal general fund amounted to less than five percent (5%) of the total revenues accruing to the municipal general fund during the prior fiscal year. Such cities and towns may pay for lawful current expenditures pursuant to the estimate of needs as filed by the city or town and pending final action of the excise board.

C. Any such temporary appropriations so approved by the excise board of any county shall, when the annual budget for such county, city, school district or other municipal subdivision is finally approved, be merged in the annual appropriations for the same purposes and any warrant which has been, in the meantime, drawn against such temporary appropriations shall be charged against the final approved annual appropriations of such county, city, school district or other municipal subdivision for the said current fiscal year. **(68-3020)**

Section 684. Supplemental Appropriations.

Whenever the public welfare or the needs of any county, city, town, or school district shall require, the excise board may, on call of the chair, convene at any time for the purpose of making supplemental or additional appropriations for current expense purposes; provided, that all such appropriations authorizing the creation of an indebtedness shall come within the limitations of Section 26, Article X, Oklahoma Constitution. No supplemental or additional appropriation shall be made for any county, city, town or school district in excess of the income and revenue provided or accumulated for the year. As to all such proposed appropriations the following procedure shall be followed:

First: The proper officers of the county, city, town or school district shall make and file with the excise board a financial statement showing its true fiscal condition as at the close of the month next preceding or as of May 15 or June 20, or both said dates, preceding the date of filing, and shall submit there with a statement of the amount and purpose for which each proposed supplemental appropriation is to be used. The financial statement shall show, as to current expense or general fund, the amount of cash in the treasury; the amount of taxes in process of collection as to which the date of sale for delinquency has not elapsed; the amount of the uncollected portion of the estimated income other than ad valorem tax as fixed by the excise board for the current fiscal year; the amount of warrants outstanding and an estimate of the interest accrued and accruing thereon; the amount of unexpended balance of all appropriations for current expense purposes as to which a period of six (6) months has not elapsed from the date of the close of the fiscal year for which the appropriation was available; and the surplus or deficit in revenue, if any, in each fund.

Second: If the financial statement herein required shall correctly reflect a surplus in revenue in any fund available for current expenses, and the excise board shall so affirmatively find, it may make supplemental appropriations to an amount not exceeding the aggregate of such surplus.

Third: If the surplus of revenue, as found and determined by the excise board, shall be insufficient for the additional needs and requirements of the county, or other municipal subdivision, the excise board shall have the power and authority to revoke and cancel in whole, or in part, any appropriation or appropriations, or parts thereof, previously made to any officer or department of government of any county, city, town or school district and to make in lieu thereof such supplemental and additional appropriations for current expense purpose as the interest of the public may require; provided, that no appropriation or part thereof shall be revoked or canceled against which there may be an unpaid claim or contract pending. The total amount of all such appropriations shall not exceed the aggregate of the amount of appropriations so revoked or canceled, and the surplus or unappropriated revenue, if any, of the county, city, town or school district for which it is proposed to make such additional appropriation; provided, that before any appropriation or part thereof shall be revoked or canceled, the officer or officers in charge of the office or department of government for which any such appropriation is available shall be notified of the proposed revocation or cancellation, and shall be afforded an opportunity, if so desired, to appear before the excise board and protest against such proposed action. As to counties, cities and school districts, the financial statement and request for supplemental appropriations herein required to be filed with the excise board shall be published at least one time in some newspaper of general circulation in the county or city for which made. The publication shall be made at least three (3) days prior to the date on which the excise board shall consider the proposed supplemental or additional appropriations. No appropriations shall be made and considered by the excise board in the absence of the financial statement herein required to be filed.

Fourth: If at any time during the budget year it appears to the county treasurer that there is temporarily insufficient money in a particular fund to meet the requirements of appropriation in the fund, the excise board, upon request of the county treasurer and upon notification to the county commissioners, may temporarily transfer money from one fund to any other fund with the permission of the county officer in charge of the fund that the money will be temporarily transferred from. No transfer shall be made from the debt service fund to any other fund except as may be permitted

by the terms of the bond issue or applicable law. Any funds temporarily transferred shall be repaid to the original fund from which they were transferred within the fiscal year that the funds were transferred. **(68-3021)**

Clerk must execute supplemental estimate in proper form, and if he refuses to perform this duty, he may be compelled to do so by mandamus. *AG Op. May 3, 1940*

The county excise board is authorized to make supplemental appropriation for building purposes for a school district even though the original estimate of such school district contained no appropriation for building purposes. *AG Op. June 9, 1936*

The excise board is not vested with discretion to determine the necessity for supplemental appropriations of school districts. *Excise Board of Okla. County v. Board of Educ. of Okla. City*, 61 P.2d 693 (Okla. 1936)

Appropriations for independent school districts for the purpose of purchasing building sites are for current expense purpose of said school district, and supplemental appropriations for such purposes are authorized by the provisions of Section 1280, O.S. 1931. (68-24101) *Excise Board of Okla. County v. Board of Educ. of Okla. City*, 61 P.2d 693 (Okla. 1936)

Funds collected in any fiscal year from general fund tax levies for prior years, in excess of the obligations for which same were originally levied, become a part of the general fund of the year in which collected, and may in proper cases form a basis for making supplemental appropriations the same as any other proper general fund asset. *Okla. County Excise Board v. Continental Oil Co*., 49 P.2d 540 (Okla. 1935)

Transfer funds received by a school district become a part of the general fund subject to a supplemental appropriation for such uses as other cash in the general fund. *AG Op. May 27, 1936*

The use of the word "may" in this section does not vest the Excise Board with the power to refuse to make supplemental appropriations where the needs therefor are shown to exist where income and revenue provided or accumulated is available for the purpose for which the appropriations are sought; and where the governing body of a school district has certified its needs therefor in the manner provided by law to the *Excise Board of Tulsa County v. State*, 34 P.2d 267 (Okla. 1934)

Section 685. Court of Tax Review - Issuance of Warrants Pending Protest.

(1) Pending the expiration of the time within which protests may be filed with the State Auditor and Inspector, no warrant shall be issued or debt contracted by any municipality for any purpose except as provided hereinafter: * * *

(c) School districts: For salaries and compensation of officers; for salaries and compensation of teachers and other employees; for office supplies, blank books, stationery and printing; for light, fuel and water; for school supplies, equipment and apparatus; for freight, express and other transportation charges; for repair and maintenance of buildings, grounds and equipment, including capital outlay as defined in Section 2490 of this title; for administrative expense; for transportation of children to and from school; and for payment of insurance. * * *

(2) Pending the final determination of any protested levy, no warrant shall be issued or debt contracted against any contested portion of any fund, except for the purposes hereinbefore provided. **(68-3032)**

A board of education has authority and can issue warrants for rent on a building leased for school purposes prior to the termination of the 40-day protest period. *AG Op. September 11, 1957*

School districts may issue warrants for maintenance of buildings and grounds during the protest period. However, this merely authorizes school districts to preserve their buildings and grounds and the existing facilities therein and thereon in a good state of repair, but does not authorize contracts for the remodeling of buildings or parts thereof or for the expansion of existing facilities or the addition of new facilities. *AG Op. August 17, 1945*

Section 686. Removal From Office for Exceeding Appropriation.

Any county or municipal officer who in his capacity as an officer or as or through a purchasing officer shall incur or cause to be incurred any indebtedness, purchase order or obligations for any purpose or for any account in excess of the appropriation available therefor shall forfeit and be removed from office in the manner provided by law for willful maladministration. **(62-310.3)**

Section 686.1. (Omitted – not applicable to school districts.)

Note: See now Section 111.26.

Section 686.2. Surplus for Unencumbered Balances – Supplemental Appropriations – Cancellation of Appropriations.

Provided all fund balance reserved for unencumbered balances of appropriations for the prior fiscal year on hand at the close of day September 30, may be appropriated by supplemental appropriation to current expense purposes in the current fiscal year in the manner now provided by law. In the event of the recording of an estimated encumbrance or in the event of an increase in the cost price of supplies, equipment, materials, etc., these underestimations may be provided for during the three-months period by the cancellation of appropriations made by the county excise board prior to June 30, subject to the approval both of the governing board and the officer in charge of the department or appropriation account only in instances as hereinabove set forth and only in amounts sufficient to pay such increased encumbrances, and by reappropriation to the appropriation accounts in which an underestimate encumbrance was made, all in the manner as now provided by law for the making of supplemental appropriations. **(62-310.5)**

> A supplemental appropriation may be requested by a county, city, town or school district and appropriated by the proper public entity, up to the close of day September 30 of the next fiscal year; supplemental appropriations are limited to the unencumbered funds on hand at the end of the prior fiscal year and only may be requested to cover underestimating or increases in the cost price of supplies, materials, equipment, etc., of valid claims incurred and approved during the prior fiscal year; statutory exception to the general rule does not permit the incurrence of new indebtedness up to September 30 of the next fiscal year chargeable to the appropriation account of the prior fiscal year. *May 8, 1984 (AG Op. No. 83-215)*

Section 687. Appropriations - Transfer of Balances.

If additional or supplemental needs exist in any department or appropriation account of a county, school board of education or municipal government as to any item or items of appropriation therefor, that are immediately urgent, and there exists in any other appropriation account or department of the government unexpended and unencumbered balances of appropriations of less immediately urgent need, the duly-constituted head of such department or officer in charge of an account needing additional or supplemental appropriations, shall make a written request for transfer of appropriation balance or any portion thereof to the governing body. The written request for transfer shall set forth such additional or supplemental needs and the occasion for such needs, together with detail of account items and the amount of each item proposed to be canceled, and the written consent of the department head or officer in charge of the account from which the appropriation or any portion thereof is to be canceled. The approval of the request for transfer by the governing body, without other formality, shall effect cancellation of appropriations in the items and amounts less urgently needed and increase in like total sum to the appropriation accounts or department by items and amounts for such immediately urgent needs. The clerk of the governing body shall notify in writing the clerk of the county excise board of the changes and shall also notify the treasurer and the head of each department affected of the action, and they shall adjust their accounts accordingly. In a municipality, or school board of education, the actions and consent of the respective department heads or officers provided in this section may be performed by the governing body or by persons designated by the governing body. **(62-461)**

Section 688. Repealed.

Section 689. Building Fund - Surplus Used to Reduce Tax for Sinking Fund.

When the governing board of any county, city, town or school district shall determine by proper resolution in writing that a surplus exists in any building fund created under the provisions of Section 10, Article X, Oklahoma Constitution, not required for the completion of the purpose for which said taxes were levied and collected, or where said proposed construction has been abandoned, said surplus shall be refunded to the taxpayers by the use thereof by the County Excise Board to reduce the tax levy for the sinking fund of the municipality for which the building fund was created. Provided, that any portion of said building funds surplus not required to eliminate a sinking fund tax levy for said municipality shall be refunded to the taxpayers by the use thereof to reduce the tax levy for the benefit of the general fund for the same municipality. **(62-333)**

Section 690. Surplus of Sinking Fund - Transfers.

Where any county, city, town or school district, dependent or independent, has accumulated a surplus in the sinking fund thereof, represented by actual cash on hand in excess of all outstanding bond or judgment indebtedness, both

matured and unmatured, including coupon and/or other interest earnings thereon whether matured or unmatured, earned or unearned, or if there be no known bond, coupon, or judgment indebtedness outstanding against it, the county excise board on application of the proper officers thereof is hereby authorized to approve the transfer of said surplus in the sinking fund of said county, city, town, or school district to be used for general fund purposes of the same county, city, town, or school district; provided, that before the excise board shall have authority to consider or approve the application of the governing board for authority to make such transfer, there shall be attached to such application an affidavit and proof of publication of published notice by such governing board of its intention to apply for authority to make such transfer, which published notice shall set forth in detail the condition of the sinking fund thereof or as to the fact of there being no known bond, coupon or judgment indebtedness outstanding. Such notice shall be published in some newspaper of general circulation in such municipality, or in such county if there be no newspaper published in the city, town, or school district. **(62-445)**

Section 691. Permanent School Fund.

All proceeds of the sale of public lands that have heretofore been or may be hereafter given by the United States for the use and benefit of the common schools of this State, all such per centum as may be granted by the United States on the sale of public lands, the sum of five million dollars appropriated to the State for the use and benefit of the common schools in lieu of sections sixteen and thirty-six, and other lands of the Indian Territory, the proceeds of all property that shall fall to the State by escheat, the proceeds of all gifts or donations to the State for common schools not otherwise appropriated by the terms of the gifts, and such other appropriations, gifts, or donations as shall be made by the Legislature for the benefit of the common schools, shall constitute the permanent school fund, the income from which shall be used for the maintenance of the common schools in the State. The principal shall be deemed a trust fund held by the State, and shall forever remain inviolate. It may be increased, but shall never be diminished. The State shall reimburse said permanent school fund for all losses thereof which may in any manner occur, and no portion of said fund shall be diverted for any other use or purpose. **(Article XI, § 2, Okla. Const.)**

> In selling School Land Trust property, Commissioners of the Land Office must utilize a method of sale which is consistent with their obligation to maximize income from the use and the sale of trust property. *April 23, 1996 (AG Op. No. 96-1)*
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> As trustee of common school lands, state has irrevocable duty to maintain trust estate for sole benefit of beneficiaries and to return full value from use and disposition of trust property. *Okla. Education Assoc., Inc. v. Nigh*, 642 P.2d 230 (Okla. 1982)
>
> The legislature may not validly alter, modify, or diminish the state, as trustee of school land trust, to administer the trust estate in a manner most beneficial to it and in a manner which yields maximum benefit in return for use of property or loan of trust funds. *Okla. Education Assoc., Inc. v. Nigh*, 642 P.2d 230 (Okla. 1982)
>
> A state may not use school land trust assets intended for use and benefit of common schools under the Enabling Act to subsidize farming and ranching. The primary purpose of school land trust is the production of income for the support and maintenance of common schools. *Okla. Education Assoc., Inc. v. Nigh*, 642 P.2d 230 (Okla. 1982)

Section 691.1 Public Lands - Investment of School Funds.

A. 1. The permanent school funds and other educational funds may be invested in first mortgages upon good and improved farm lands within the state (and in no case shall more than fifty percent (50%) of the reasonable value of the lands, without improvements, be loaned upon any tract).

2. Sufficient monies shall be kept on hand at all times by the Commissioners of the Land Office to close all approved applications for first mortgage loans, as may be approved from time to time by the Commissioners of the Land Office.

B. 1. The Commissioners of the Land Office shall be responsible for the investment of the permanent school funds, other educational funds and public building funds solely in the best interests of the beneficiaries. The Commissioners of the Land Office shall make such investments:

a. for the exclusive purpose of:

(1) providing maximum benefits to current and future beneficiaries, and

(2) defraying reasonable expenses of administering the trust funds,

b. with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like enterprise of a like character and with like aims would use, and

c. by diversifying the investments of the trust funds so as to minimize the risk of large losses.

2. The permanent school fund and other educational funds may only be invested in bonds issued in the United States and United States dollar denominated or other investments settled in United States dollars or traded on the United States exchange markets. Until July 2, 2001, the Commissioners of the Land Office shall not invest more than fifty percent (50%) of the permanent common school fund, other educational funds and public building funds in equity securities. On and after July 1, 2001, the investment in securities may be increased by five percent (5%) each year until the investment in equity securities reaches a maximum of sixty percent (60%).

3. The Commissioners shall establish an investment committee. The investment committee shall be composed of not more than three (3) members of the Commissioners of the Land Office or their designee. The committee shall make recommendations to the Commissioners of the Land Office on all matters related to the choice of managers of the assets of the funds, on the establishment of investment and fund management guidelines, and in planning future investment policy. The committee shall have no authority to act on behalf of the Commissioners of the Land Office in any circumstances whatsoever. No recommendations of the committee shall have effect as an action of the Commissioners of the Land Office or take effect without the approval of the Commissioners as provided by law. The Commissioners shall promulgate and adopt on an annual basis an investment plan. The investment plan shall state the criteria for selecting investment managers, the allocation of assets among investment managers, and established standards of investment and fund management.

4. The Commissioners shall retain qualified investment managers to provide for investment of the fund monies pursuant to the investment plan. Investment managers be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Commissioners. Subject to the investment plan, each investment manager shall have full discretion in the management of the funds allocated to said investment managers. The funds allocated to investment managers shall be actively managed by them, which may include selling investments and realizing losses if such action is considered advantageous to longer term return maximization. Because of the total return objective, no distinction shall be made for management and performance evaluation purposes between realized and unrealized capital gains and losses.

5. The Commissioners shall take such measures as they deem appropriate to safeguard custody of securities and other assets of the Trusts.

6. By August 1 of each year, the Commissioners shall develop a written investment plan for the trust funds.

7. The Commissioners shall compile a quarterly financial report showing the performance of all the combined funds under their control on a fiscal year basis. The report shall contain a list of all investments made by the Commissioners and a list of any commissions, fees or payments made for services regarding such investments for that reporting period. The report shall be based on market values and shall be compiled pursuant to uniform reporting standards prescribed by the Oklahoma State Pension Commission for all state retirement systems. The report shall be distributed to the Oklahoma State Pension Commission, the Cash Management and Investment Oversight Commission, and the Legislative Service Bureau.

8. Before October 1 of each year, the Commissioners shall publish an annual report of all Trust operations, presented in a simple and easily understood manner to the extent possible. The report shall be submitted to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the State Department of Education and each higher education beneficiary. The annual report shall cover the operation of the Trusts during the past fiscal year, including income, disbursements and the financial condition of the Trusts at the end of each fiscal year on a cash basis. The annual report shall also contain a summary of each Trust's assets and current market value as of the report date.

9. The Cash Management and Investment Oversight Commission shall review reports prepared by the Commissioners of the Land Office pursuant to this subsection and shall make such recommendations regarding the investment strategies and practices, the development of internal auditing procedures and practices and such other matters as determined necessary and applicable.

10. The Commissioners of the Land Office shall select one custodial bank to settle transactions involving the investment of the funds under the control of the Commissioners of the Land Office. The Commissioners of the Land Office shall review the performance of the custodial bank at least once every year. The Commissioners of the Land Office shall require a written competitive bid every five (5) years. The custodial bank shall have a minimum of Five Hundred Million Dollars ($500,000,000.00) in assets to be eligible for selection. Any out-of-state custodial bank shall have a service agent in the State of Oklahoma so that service of summons or legal notice may be had on such designated agent as is now or may hereafter be provided by law. In order to be eligible for selection, the custodial bank shall allow electronic access to all transaction and portfolio reports maintained by the custodial bank involving the investment of state funds under control of the Commissioners of the Land Office and to the Cash Management and Investment Oversight Commission. The requirement for electronic access shall be incorporated into any contract between the Commissioners of the Land Office and the custodial bank. Neither the Commissioners of the Land Office nor the custodial bank shall permit any of the funds under the control of the Commissioners of the Land Office or any of the documents, instruments, securities or other evidence of a right to be paid money to be located in any place other than within a jurisdiction or territory under the control or regulatory power of the United States government. **(64-51)**

64 O.S. Supp.2004, § 51.1(D)(5)), which requires the CLO to consult with private concessionaires before making its investment decisions impairs the ability of the CLO to invest its funds solely for the benefit of the beneficiaries of the School Land Trust for maximum return and violates applicable provisions of the Oklahoma Constitution and the Enabling Act, and is unconstitutional. *October 12, 2004 (AG Op. No. 04-31)*

This section provides that the Commissioners of the Land Office may invest in mortgages on farm lands and bonds or other investments. It does not grant authority to invest in timberland or other real estate. *August 19, 2002 (AG Op. No. 02-36).*

Section 691.2 Public Lands - Monthly Distribution of Certain Funds.

A. All distribution from the permanent school funds, other educational funds and public building funds shall be made monthly.

B. The annual distribution from the trust funds held by the Commissioners of the Land Office shall be five percent (5%) of the average of the fiscal year-end market values for the preceding three (3) fiscal years. For any fiscal year for which the distribution, calculated by this formula, would be less than the distribution for the preceding fiscal year, the distribution may be increased to the amount distributed during the preceding fiscal year; provided, that the distribution shall not exceed the limit prescribed in Section 3 of Article XI of the Constitution of the State of Oklahoma.

C. The market value of the trust funds shall be established using the fiscal year-end balance of the total trust funds held by the custodial bank.

D. For purposes of this section the fiscal year shall correspond with the fiscal year of the State of Oklahoma. **(64-51.A)**

Section 692. Revenues Used for School Purposes Only.

The interest and income of the permanent school fund, the net income from the leasing of public lands which have been or may be granted by the United States to the State for the use and benefit of the common schools, together with any revenues derived from taxes authorized to be levied for such purposes, and any other sums which may be added thereto by law, shall be used and applied each year for the benefit of the common schools of the State, and shall be, for this purpose, apportioned among and between all the several common school districts of the State in proportion to the school population of the several districts, and no part of the fund shall ever be diverted from this purpose, or used for any other purpose than the support and maintenance of common schools for the equal benefit of all the people of the State. **(Article XI, § 3, Okla. Const.)**

Section 693. Funds - Apportioned Monthly.

The Commissioners of the Land Office shall apportion the distribution accruing from the Permanent School Fund and the ad valorem taxes collected by the state from which proper reports have been received by the Superintendent of Public Instruction. All such monies remaining in the hands of the Commissioner of the Land Office and in the State Treasury at the close of each calendar month shall be apportioned and paid over to the schools within fifteen (15) days following the close of each such month. **(70-614)**

Section 694. Basis of Apportionment.

The apportionment shall be made to the school districts of the county on the basis of school population as determined pursuant to the provisions of Section 56 of this act for the preceding school year as certified by the State Board of Education. The Commissioners of the Land Office, in distributing all funds mentioned in this section, shall draw their order on the State Treasurer or other officer having custody of such funds, in favor of the schools of the counties respectively, entitled to school monies, using electronic funds transfer as defined by the Office of the Oklahoma State Treasurer: Provided, that the federal appropriation made shall be apportioned by said Commissioners, to the several schools, entitled to the same under Act of Congress providing for said appropriation, in proportion to the number of children of school age shown by the last federal census. **(70-615)**

Section 695. Auto License Fees - Apportionment.

A. Unless otherwise provided by law, all fees, taxes and penalties collected or received pursuant to the Oklahoma Vehicle License and Registration Act or Section 1-101 et seq. of this title shall be apportioned and distributed monthly by the Oklahoma Tax Commission as follows:

B. 1. The following percentages of the monies referred to in subsection A of this section shall be apportioned to the various school districts in accordance with paragraph 2 of this subsection:

a. from October 1, 2000, until June 30, 2001, thirty-five and forty-six one-hundredths percent (35.46%),

b. for the year beginning July 1, 2001, and ending June 30, 2002, thirty-five and ninety-one one-hundredths percent (35.91%), and

c. for the year beginning July 1, 2002, and all subsequent years, thirty-six and twenty one-hundredths percent (36.20%).

2. Thirty-five percent (35%) of said monies shall be apportioned to the various school districts as follows:

a. except as otherwise provided in this subparagraph, each district shall receive the same amount of funds as such district received from the taxes and fees provided in this title in the corresponding month of the preceding year. Any district eligible for funds pursuant to the provisions of this section that was not eligible the preceding year shall receive an amount equal to the average daily attendance of the applicable year multiplied by the average daily attendance apportionment within such county for each appropriate month. For fiscal year 1995 and thereafter, any district which received less than twenty-five percent (25%) of the average apportionment of said monies made to school districts in this state based on average daily attendance in fiscal year 1995 shall receive an amount equal to the average daily attendance in the 1994-1995 school year multiplied by the average daily attendance apportionment within the county in which the district is located for each appropriate month, and

b. any funds remaining unallocated following the allocation provided in subparagraph a of this paragraph shall be apportioned to the various school districts so that each district shall first receive the cumulative total of the monthly apportionments for which it is otherwise eligible under subparagraph a of this paragraph and then an amount based upon the proportion that each district's average daily attendance bears to the total average daily attendance of those districts entitled to receive funds pursuant to this section as certified by the State Department of Education, and

Each district's allocation of funds shall be remitted to the county treasurer of the county wherein the administrative headquarters of the district are located.

No district shall be eligible for the funds herein provided unless said district makes an ad valorem tax levy of fifteen (15) mills and maintains nine (9) years of instruction and pursuant to the rules of the State Board of Education, are authorized to maintain ten (10) years of instruction; * * * * * (Remainder of statute omitted) **(47-1104)**

Section 696. Gross Production Tax - Distribution.

A. Beginning July 1, 2002, the gross production tax provided for in Section 1001 of this title is hereby levied and shall be collected and apportioned as follows:

1. For all monies collected from the tax levied on asphalt or ores bearing uranium, lead, zinc, jack, gold, silver or copper:

a. eighty-five and seventy-two one-hundredths percent (85.72%) shall be paid to the State Treasurer of the state to be placed in the General Revenue Fund of the state and used for the general expense of state government, to be paid out pursuant to direct appropriation by the Legislature,

b. seven and fourteen one-hundredths percent (7.14%) of the sum collected from natural gas and/or casinghead gas or asphalt or ores bearing uranium, lead, zinc, jack, gold, silver or copper shall be paid to the various county treasurers to be credited to the County Highway Fund as follows: Each county shall receive a proportionate share of the funds available based upon the proportion of the total value of production from such county in the corresponding month of the preceding year, and

c. seven and fourteen one-hundredths percent (7.14%) shall be allocated to each county as provided for in subparagraph b of this paragraph and shall be apportioned, on an average daily attendance per capita distribution basis, as certified by the State Superintendent of Public Instruction to the school districts of the county where such pupils attend school regardless of residence of such pupil, provided the school district makes an ad valorem tax levy of fifteen (15) mills for the current year and maintains twelve (12) years of instruction;

2. For all monies collected from the tax levied on natural gas and/or casinghead gas at a tax rate of seven percent (7%) pursuant to the provisions of subsection B of Section 1001 of this title:

a. eighty-five and seventy-two one-hundredths percent (85.72%) shall be paid to the State Treasurer of the state to be placed in the General Revenue Fund of the state and used for the general expense of state government, to be paid out pursuant to direct appropriation by the Legislature,

b. seven and fourteen one-hundredths percent (7.14%) of the sum collected from natural gas and/or casinghead gas shall be paid to the various county treasurers to be credited to the County Highway Fund as follows: Each county shall receive a proportionate share of the funds available based upon the proportion of the total value of production from such county in the corresponding month of the preceding year, and

c. seven and fourteen one-hundredths percent (7.14%) shall be allocated to each county as provided for in subparagraph b of this paragraph and shall be apportioned, on an average daily attendance per capita distribution basis, as certified by the State Superintendent of Public Instruction to the school districts of the county where such pupils attend school regardless of residence of such pupil, provided the school district makes an ad valorem tax levy of fifteen (15) mills for the current year and maintains twelve (12) years of instruction;

3. For all monies collected from the tax levied on natural gas and/or casinghead gas at a tax rate of four percent (4%) pursuant to the provisions of subsection B of Section 1001 of this title:

a. seventy-five percent (75%) shall be paid to the State Treasurer of the state to be placed in the General Revenue Fund of the state and used for the general expense of state government, to be paid out pursuant to direct appropriation by the Legislature,

b. twelve and one-half percent (12.5%) of the sum collected from natural gas and/or casinghead gas shall be paid to the various county treasurers to be credited to the County Highway Fund as follows: Each county shall receive a proportionate share of the funds available based upon the proportion of the total value of production from such county in the corresponding month of the preceding year, and

c. twelve and one-half percent (12.5%) shall be allocated to each county as provided for in subparagraph b of this paragraph and shall be apportioned, on an average daily attendance per capita distribution basis, as certified by the State Superintendent of Public Instruction to the school districts of the county where such pupils attend school regardless of residence of such pupil, provided the school district makes an ad valorem tax levy of fifteen (15) mills for the current year and maintains twelve (12) years of instruction;

4. For all monies collected from the tax levied on natural gas and/or casinghead gas at a tax rate of one percent (1%) pursuant to the provisions of subsection B of Section 1001 of this title:

a. fifty percent (50%) of the sum collected from natural gas and/or casinghead gas shall be paid to the various county treasurers to be credited to the County Highway Fund as follows: Each county shall receive a proportionate share of the funds available based upon the proportion of the total value of production from such county in the corresponding month of the preceding year, and

b. fifty percent (50%) shall be allocated to each county as provided for in subparagraph a of this paragraph and shall be apportioned, on an average daily attendance per capita distribution basis, as certified by the State Superintendent of Public Instruction to the school districts of the county where such pupils attend school regardless of residence of such pupil, provided the school district makes an ad valorem tax levy of fifteen (15) mills for the current year and maintains twelve (12) years of instruction;

5. For all monies collected from the tax levied on oil at a tax rate of seven percent (7%) pursuant to the provisions of subsection B of Section 1001 of this title:

a. twenty-five and seventy-two one-hundredths percent (25.72%) shall be paid to the State Treasurer to be placed in the Common Education Technology Revolving Fund created in Section 41.29c of Title 62 of the Oklahoma Statutes,

b. twenty-five and seventy-two one-hundredths percent (25.72%) shall be paid to the State Treasurer to be placed in the Higher Education Capital Revolving Fund created in Section 41.29d of Title 62 of the Oklahoma Statutes,

c. twenty-five and seventy-two one-hundredths percent (25.72%) shall be paid to the State Treasurer to be placed in the Oklahoma Tuition Scholarship Revolving Fund created in Section 41.29e of Title 62 of the Oklahoma Statutes,

d. three and seven hundred forty-five one-thousandths percent (3.745%) shall be distributed to the various counties of the state for deposit into the County Bridge and Road Improvement Fund of each county based on a formula developed by the Department of Transportation and approved by the Department of Transportation County Advisory Board created pursuant to Section 302.1 of Title 69 of the Oklahoma Statutes to be used for the purposes set forth in the County Bridge and Road Improvement Act. The formula shall be similar to the formula currently used for the distribution of monies in the County Bridge Program funds, but shall also take into consideration the effect of the terrain and traffic volume as related to county road improvement and maintenance costs,

e. four and twenty-eight one-hundredths percent (4.28%) shall be paid to the State Treasurer to be apportioned to:

(1) the following sources and in the following amounts through the fiscal year ending June 30, 2014:

(a) thirty-three and one-third percent (33 1/3%) to the Oklahoma Tourism and Recreation Department Capital Expenditure Revolving Fund created pursuant to Section 2254.1 of Title 74 of the Oklahoma Statutes,

(b) thirty-three and one-third percent (33 1/3%) to the Oklahoma Conservation Commission Infrastructure Revolving Fund created pursuant to Section 3-2-110 of Title 27A of the Oklahoma Statutes, and

(c) thirty-three and one-third percent (33 1/3%) to the Community Water Infrastructure Development Revolving Fund created pursuant to Section 1085.7A of Title 82 of the Oklahoma Statutes, and

(2) the Oklahoma Water Resources Board Rural Economic Action Plan Water Projects Fund for the fiscal year ending June 30, 2014, and for each fiscal year thereafter,

f. seven and fourteen one-hundredths percent (7.14%) of the sum collected from oil shall be paid to the various county treasurers, to be credited to the County Highway Fund as follows: Each county shall receive a proportionate share of the funds available based upon the proportion of the total value of production from such county in the corresponding month of the preceding year,

g. seven and fourteen one-hundredths percent (7.14%) shall be allocated to each county as provided in subparagraph f of this paragraph and shall be apportioned, on an average daily attendance per capita distribution basis, as certified by the State Superintendent of Public Instruction, to the school districts of the county where such pupils attend school regardless of residence of such pupil, provided the school district makes an ad valorem tax levy of fifteen (15) mills for the current year and maintains twelve (12) years of instruction, and

h. five hundred thirty-five one-thousandths percent (0.535%) of the levy shall be transmitted by the Oklahoma Tax Commission to the Statewide Circuit Engineering District Revolving Fund as created in Section 687.2 of Title 69 of the Oklahoma Statutes;

6. For all monies collected from the tax levied on oil at a tax rate of four percent (4%) pursuant to the provisions of subsection B of Section 1001 of this title:

a. twenty-two and one-half percent (22.5%) shall be paid to the State Treasurer to be placed in the Common Education Technology Revolving Fund created in Section 41.29c of Title 62 of the Oklahoma Statutes,

b. twenty-two and one-half percent (22.5%) shall be paid to the State Treasurer to be placed in the Higher Education Capital Revolving Fund created in Section 41.29d of Title 62 of the Oklahoma Statutes,

c. twenty-two and one-half percent (22.5%) shall be paid to the State Treasurer to be placed in the Oklahoma Tuition Scholarship Revolving Fund created in Section 41.29e of Title 62 of the Oklahoma Statutes,

d. three and twenty-eight one-hundredths percent (3.28%) shall be distributed to the various counties of the state for deposit into the County Bridge and Road Improvement Fund of each county based on a formula developed by the Department of Transportation and approved by the Department of Transportation County Advisory Board created pursuant to Section 302.1 of Title 69 of the Oklahoma Statutes to be used for the purposes set forth in the County Bridge and Road Improvement Act. The formula shall be similar to the formula currently used for the distribution of monies in the County Bridge Program funds, but shall also take into consideration the effect of the terrain and traffic volume as related to county road improvement and maintenance costs,

e. three and seventy-five one-hundredths percent (3.75%) shall be paid to the State Treasurer to be apportioned to:

(1) the following sources and in the following amounts through the fiscal year ending June 30, 2014:

(a) thirty-three and one-third percent (33 1/3%) to the Oklahoma Tourism and Recreation Department Capital Expenditure Revolving Fund created pursuant to Section 2254.1 of Title 74 of the Oklahoma Statutes,

(b) thirty-three and one-third percent (33 1/3%) to the Oklahoma Conservation Commission Infrastructure Revolving Fund created pursuant to Section 3-2-110 of Title 27A of the Oklahoma Statutes, and

(c) thirty-three and one-third percent (33 1/3%) to the Community Water Infrastructure Development Revolving Fund created pursuant to Section 1085.7A of Title 82 of the Oklahoma Statutes, and

(2) the Oklahoma Water Resources Board Rural Economic Action Plan Water Projects Fund for the fiscal year ending June 30, 2014, and for each fiscal year thereafter,

f. twelve and one-half percent (12.5%) of the sum collected from oil shall be paid to the various county treasurers, to be credited to the County Highway Fund as follows: Each county shall receive a proportionate share of the funds available based upon the proportion of the total value of production from such county in the corresponding month of the preceding year,

g. twelve and one-half percent (12.5%) shall be allocated to each county as provided in subparagraph f of this paragraph and shall be apportioned on an average daily attendance per capita distribution basis, as certified by the State Superintendent of Public Instruction, to the school districts of the county where such pupils attend school regardless of residence of such pupil, provided the school district makes an ad valorem tax levy of fifteen (15) mills for the current year and maintains twelve (12) years of instruction, and

h. forty-seven one-hundredths percent (0.47%) of the levy shall be transmitted by the Tax Commission to the Statewide Circuit Engineering District Revolving Fund as created in Section 687.2 of Title 69 of the Oklahoma Statutes;

7. For all monies collected from the tax levied on oil at a tax rate of one percent (1%) pursuant to the provisions of subsection B of Section 1001 of this title:

a. fifty percent (50%) of the sum collected shall be paid to the various county treasurers, to be credited to the County Highway Fund as follows: Each county shall receive a proportionate share of the funds available based upon the proportion of the total value of production from such county in the corresponding month of the preceding year, and

b. fifty percent (50%) shall be allocated to each county as provided for in subparagraph a of this paragraph and shall be apportioned on an average daily attendance per capita distribution basis, as certified by the State Superintendent of Public Instruction, to the school districts of the county where such pupils attend school regardless of residence of such pupil, provided the school district makes an ad valorem tax levy of fifteen (15) mills for the current year and maintains twelve (12) years of instruction.

B. Provided, notwithstanding any other provision of this section, the total amounts deposited to the Common Education Technology Revolving Fund, the Higher Education Capital Revolving Fund, the Oklahoma Tuition Scholarship Revolving Fund, the Rural Economic Action Plan Water Projects Fund, the Oklahoma Tourism and Recreation Department Capital Expenditure Revolving Fund, the Oklahoma Conservation Commission Infrastructure Revolving Fund and the Community Water Infrastructure Development Revolving Fund pursuant to paragraphs 5 and 6 of subsection A of this section shall not exceed One Hundred Fifty Million Dollars ($150,000,000.00) in any fiscal year. Except as otherwise provided in this subsection, all sums in excess of One Hundred Fifty Million Dollars ($150,000,000.00) in any fiscal year which would otherwise be deposited in such funds shall be placed by the State Treasurer in the General Revenue Fund of the state. Amounts which would otherwise be placed by the State Treasurer in the General Revenue Fund for the fiscal year ending on June 30, 2011, pursuant to this subsection, shall be deposited or transferred by the State Treasurer as follows:

1. Ten Million Dollars ($10,000,000.00) to the Ad Valorem Reimbursement Fund created pursuant to Section 193 of Title 62 of the Oklahoma Statutes for the purpose of reimbursing counties for school districts that claim a loss of revenue due to a tax exemption granted pursuant to the provisions of Section 6B of Article X of the Oklahoma Constitution; and

2. Ten Million Dollars ($10,000,000.00) to the Oklahoma State Regents for Higher Education Revolving Fund for the purposes of the education and general operating budgets of the institutions and for other programs, construction, renovations or repairs administered by the Oklahoma State Regents for Higher Education;

3. One Million Four Hundred Thousand Dollars ($1,400,000.00) to the State Career-Technology Fund; and

4. All funds except those deposited pursuant to paragraphs 1, 2 and 3 of this subsection to the General Revenue Fund of the state. **(68-1004)**

Note: Amended by SB 972, Sec. 1 of the 2011 Reg. Sess.

Section 696.1. Imposition of Special Fuel Use Tax.

(a) There is hereby levied and imposed an excise tax of Five and one-half (5 ½¢) cents per gallon on the use, within the meanings of the word "use" as defined in this Act, of all special fuels delivered in this State into the fuel supply tank or tanks of motor vehicles. The delivery or placing of special fuel into the fuel supply tank or tanks of motor vehicles for use in whole or in part for power to propel such vehicles on the public highways shall constitute and is hereby declared to be the taxable incidence of this levy.

(b) An excise tax of Five and one-half (5 ½¢) cents per gallon is also levied, in consideration of the use of the highways of this State, on the use of all special fuels imported into Oklahoma in the fuel supply tank or tanks of motor vehicles and used to propel said motor vehicles for commercial purposes, public or private, or for transportation for hire or compensation, on the public highways of this State, which tax shall be measured and determined by the number of gallons of such imported special fuels actually used in Oklahoma. **(68-703)**

Section 696.2. Special Fuel Use Tax Exemptions.

The tax levied by this act shall not apply to:

* * * * *

9. Special fuel purchased by any Oklahoma school district for use as fuel to propel motor vehicles on the public roads and highways of this state, when the vehicles are being operated for the sole benefit of the school district, provided that if the special fuel is placed directly into the fuel supply tank or tanks of the motor vehicle by the supplier, an exemption certificate must be furnished to the supplier on forms prescribed and furnished by the Tax Commission; and

* * * * *

(68-708)

In the absence of an actual arm's length sale at the wellhead, the correct method to determine gross value of gas for calculation of gross production and petroleum excise taxes is the prevailing market price method or the work-back method, whichever results in the higher value. *State ex rel. Oklahoma Tax Commission v. Texaco Exploration & Production, Inc.*, 2005 OK 52

Section 697. Sales Tax Exemptions - Governmental and Nonprofit.

Exemptions - Governmental and nonprofit entities.

There are hereby specifically exempted from the tax levied by Section 1350 et seq. of this title:

1. Sale of tangible personal property or services to the United States government or to the State of Oklahoma, any political subdivision of this state or any agency of a political subdivision of this state; provided, all sales to contractors in connection with the performance of any contract with the United States government, State of Oklahoma or any of its political subdivisions shall not be exempted from the tax levied by Section 1350 et seq. of this title, except as hereinafter provided;

* * * * *

3. Sales of property to agents appointed by or under contract with a political subdivision of this state if the sale of such property is associated with the development of a qualified federal facility, as provided in the Oklahoma Federal Facilities Development Act, and if ownership and possession of such property transfers immediately to the political subdivision or the state;

* * * * *

5. Sale of food in cafeterias or lunch rooms of elementary schools, high schools, colleges or universities which are operated primarily for teachers and pupils and are not operated primarily for the public or for profit;

* * * * *

10. Sale of tangible personal property or services to any county, municipality, rural water district, public school district, the institutions of The Oklahoma State System of Higher Education, the Grand River Dam Authority, the Northeast Oklahoma Public Facilities Authority, the Oklahoma Municipal Power Authority, City of Tulsa-Rogers County Port Authority, Muskogee City-County Port Authority, the Oklahoma Department of Veterans Affairs, the Broken Bow Economic Development Authority, Ardmore Development Authority, Durant Industrial Authority, Oklahoma Ordnance Works Authority, Central Oklahoma Master Conservancy District, Arbuckle Master Conservancy District, Fort Cobb Master Conservancy District, Foss Reservoir Master Conservancy District, Mountain Park Master Conservancy District, Waurika Lake Master Conservancy District, Department of Central Services only when carrying out a public construction contract on behalf of the Oklahoma Department of Veterans Affairs or to any person with whom any of the above-named subdivisions or agencies of this state has duly entered into a public contract pursuant to law, necessary for carrying out such public contract or to any subcontractor to such a public contract. Any person making purchases on behalf of such subdivision or agency of this state shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such subdivision or agency of this state and set out the name of such public subdivision or agency. Any person who wrongfully or erroneously certifies that purchases are for any of the above-named subdivisions or agencies of this state or who otherwise violates this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days or both;

11. Sales of tangible personal property or services to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher Education which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), including materials, supplies, and equipment used in the construction and improvement of buildings and other structures owned by the institutions and operated for educational purposes.

Any person, firm, agency or entity making purchases on behalf of any institution, agency or subdivision in this state, shall certify in writing, on the copy of the invoice or sales ticket the nature of the purchases, and violation of this paragraph shall be a misdemeanor as set forth in paragraph 10 of this section;

12. Tuition and educational fees paid to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher Education which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

13. a. Sales of tangible personal property made by:

(1) a public school,

(2) a private school offering instruction for grade levels kindergarten through twelfth grade,

(3) a public school district,

(4) a public or private school board,

(5) a public or private school student group or organization,

(6) a parent-teacher association or organization other than as specified in subparagraph b of this paragraph, or

(7) public or private school personnel for purposes of raising funds for the benefit of a public or private school, public school district, public or private school board or public or private school student group or organization, or

b. Sales of tangible personal property made by or to nonprofit parent-teacher associations or organizations exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) and before July 1, 2014, nonprofit local public or private school foundations which solicit money or property in the name of any public or private school or public school district.

The exemption provided by this paragraph for sales made by a public or private school shall be limited to those public or private schools accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs. Sale of tangible personal property in this paragraph shall include sale of admission tickets and concessions at athletic events;

* * * * *

31. Sales of tangible personal property or services to a municipality, county or school district pursuant to a lease or lease-purchase agreement executed between the vendor and a municipality, county or school district. A copy of the lease or lease-purchase agreement shall be retained by the vendor;

* * * * *

50. Effective July 1, 2005, sales of tangible personal property or services to the Career Technology Student Organizations under the direction and supervision of the Oklahoma Department of Career and Technology Education;

* * * * *

(68-1356)

Students, not school district, were "consumers" of photograph packages; therefore, sales of photograph packages were subject to sales tax. *Enterprise School Photos, Inc. v. Oklahoma Tax Commission*, 898 P.2d 187 (Okla. App. 1995)

Section 697.1. Sales Tax Exemptions - Transportation

There are hereby specifically exempted from the tax levied by the Oklahoma State Tax Code:

1. Transportation of school pupils to and from elementary schools or high schools in motor or other vehicles:

* * * * *

(68-1357)

Section 697.2. Vehicle Excise Tax Exemption.

An original or a transfer certificate of title shall be issued without the payment of the excise tax levied by Section 2101 et seq, of this title for:

* * * * *

3. Any vehicle registered by the State of Oklahoma, by any of the political subdivisions thereof, or by a fire department organized pursuant to Section 592 of Title 18 of the Oklahoma Statutes to be used for the purposes of the fire department, or a vehicle which is the subject of a lease or lease-purchase agreement executed between the person seeking an original or transfer certificate of title for the vehicle and a municipality, county, school district, or fire protection district. The person seeking an original or transfer certificate of title shall provide adequate proof that the vehicle is subject to a lease or lease-purchase agreement with a municipality, county, school district, or fire protection district at the time the excise tax levied would otherwise be payable. The Oklahoma Tax Commission shall have the authority to determine what constitutes adequate proof as required by this section. **(68-2105)**

* * * * *

Section 697.3. Ad Valorem Tax Exemption.

The following property shall be exempt from ad valorem taxation:

* * * * *

2. All property of this state, and of the counties, school districts, and municipalities of this state, including property acquired for the use of such entities pursuant to the terms of a lease-purchase agreement which provides for the passage of title or the release of security interest, if applicable, upon payment of all rental payments and an additional nominal amount;

* * * * *

(68-2887)

Section 698. Vehicle Tax Stamps.

The county treasurer shall, at the end of each calendar month, apportion all collections from the sales of the tax stamps herein provided for as follows. * * * Forty-nine percent (49%) shall be allocated to the schools of the county on an ADA basis. * * *. **(68-5305)**

Section 699. Flood Control Rentals - Distribution.

The State Treasurer of Oklahoma is hereby authorized and required to distribute monies now in his hands, or hereafter received by him under the provisions of Section 7 of the Flood Control Act of Congress, approved August 18, 1941, as amended by 33 U.S.C.A. §§ 701c-3, in the following manner:

Such monies shall be distributed by the State Treasurer at the end of each fiscal year to the county treasurers of counties wherein is located a federal flood control project, and shall be by the said county treasurer of each such county distributed as follows: one-fourth (¼) to the county sinking fund, except that if there be no county bonded indebtedness said one-fourth (¼) shall be apportioned to the general fund of the county to be used for any lawful general fund purpose as and in the manner provided by law; one-fourth (¼) to the various school districts of such county on an enumeration basis, said amount to be placed in the general fund of said district to be used for any lawful general fund purpose as and in the manner provided by law; and one-half (½) to the general fund of such county, to be used for any lawful general fund purpose, as and in the manner provided by law. **(62-204)**

Provisions governing distribution of monies apply irrespective of when monies are received or when flood control project was initiated. *AG Op. March 27, 1972*

Flood control monies received by a school district can be used for a supplemental appropriation. *AG Op. February 1, 1967*

Section 700. Rental From Forest Reserves.

From and after the passage of this act, each county treasurer of this state shall, out of any funds now on hand and any funds hereinafter received by him from the United States Government as said county's share of the rentals from forest reserves located therein, immediately apportion same as follows:

1st. Twenty-five percent (25%) of all money now on hand and hereinafter received to be prorated and apportioned among the various school districts of said counties situated and located contiguous to such forest reserves, according to the scholastic population thereof;

2nd. Seventy-five percent (75%) of all such money now on hand and hereinafter received, shall be deposited in a special road fund to be expended on county highways leading into and away from such forest reserves, under the direction and supervision of the board of county commissioners of such county. **(62-326)**

Where district not contiguous to Forest Reserve is annexed to district that is contiguous, annexing district and annexed portion become one district, and entire district then becomes contiguous, and rentals from Reserve should be apportioned on total scholastic population of newly formed district comprising annexing district and annexed district. *Goodin v. Board of Education of ISD No. 14*, 601 P.2d 88 (Okla. 1979)

Where district is annexed to another district that is contiguous to a Forest Reserve, apportionments of Forest Reserve rentals should be made to annexing district based on total population to both districts. *AG Op. April 16, 1969*

Section 701. Submarginal Lands - Revenue - Distribution.

All funds received by a county under the provisions of Section 33, Title III, of the Act of Congress known as the Bankhead-Jones Farm Tenant Act, approved July 22, 1937 (7 U.S.C.A. Section 1012), as revenue from the use of submarginal lands and certain other lands, shall be apportioned as follows: One-third (⅓) thereof shall be deposited in the County Highway Fund and the remaining two-thirds (⅔) thereof shall be apportioned to the affected school districts of the county in direct ratio of the number of areas of said lands within each school district to the total number of acres of such lands which were purchased by the federal government under the provisions of the Bankhead-Jones Farm Tenant Act. **(62-491)**

Section 702. Payment Made by Housing Authority in Lieu of Taxes - Allocation to School District.

The property and funds of a housing authority are declared to be used for charitable purposes and to be public property used for essential public and governmental purposes, and such property and the authority are exempt from all taxes, including sales and use taxes and special assessments of the state or any state or local public body. In lieu of taxes on its property an authority shall agree to make such payments to the state or any state or local public body as the governing body of the city or county finds consistent with the maintenance of the low-rent character of housing projects and the achievement of the purposes of this act, provided that not less than one-half (½) of the annual amount of such payment in lieu of taxes shall be paid to the school district within which the property of the housing authority is located. The amount of money collected under the provisions of this act shall not be considered as chargeable income to the district receiving such funds. The tax exemption provided by this section does not apply to any portion of a project used by a profit-making enterprise, but in taxing such portions appropriate allowance shall be made for any expenditure by an authority for utilities or other public services which it provides to serve the property. **(63-1066)**

One half of payments should be to school district and other half to such other governmental agencies as governing body of territory in which housing authority operates may in its discretion direct. *April 29, 1981 (AG Op. No. 81-77)*

Section 703. Drug Abuse Education Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Board of Education to be designated the "Drug Abuse Education Revolving Fund." The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of fines collected pursuant to the Trafficking in Illegal Drugs Act. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Board of Education for drug abuse education programs. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment. **(63-2-417)**

Note: 63 O.S. Supp. 1987 §2-416(3) provides that twenty-five percent (25%) of the fines specified in the "Trafficking in Illegal Drugs Act": (63 O.S. Supp. 1987 §2-416) are to be distributed to the Drug Abuse Education Revolving Fund to be used for drug abuse education programs within the State Department of Education.

Section 703.1. Education Reform Revolving Fund - Separate Accounting.

There is hereby created in the State Treasury a revolving fund for the State Department of Education to be designated the "Education Reform Revolving Fund". The said Education Reform Revolving Fund shall consist of any monies as apportioned by Sections 1353, 1403 and 2352 of Title 68 of the Oklahoma Statutes, such revenue as is apportioned pursuant to the provisions of Section 312.1 of Title 36 of the Oklahoma Statutes and any other funds designated by law for deposit thereto. The Education Reform Revolving Fund herein created may be expended for the purposes stated in Enrolled House Bill No. 1017 of the 1st Extraordinary Session of the 42nd Oklahoma Legislature, and in the same manner as appropriated funds. **(62-34.89)**

Section 703.2. Common Education Technology Fund.

There is hereby created in the State Treasury a revolving fund for the State Department of Education to be designated the "Common Education Technology Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies received pursuant to the provisions of subparagraph a of paragraph 2 and subparagraph a of paragraph 3 of Section 1004 of Title 68 of the Oklahoma Statutes and any funds previously deposited in the Common Education Technology Fund. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the State Department of Education as authorized by the Oklahoma Legislature. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment. **(62-34.90)**

Section 703.3. Teachers' Retirement System Dedicated Revolving Fund.

A. The Office of State Finance shall separately account for revenues which are deposited to the credit of the Teachers' Retirement System Dedicated Revenue Revolving Fund of the State Treasury pursuant to the provisions of Sections 1353, 1403 and 2352 of Title 68 of the Oklahoma Statutes on a fiscal year basis and shall provide an accounting to the Governor, President Pro Tempore of the Senate, and the Speaker of the House of Representatives within thirty (30) days after the end of the fiscal year.

B. Funds separately accounted for herein shall be used only to fund the currently unfunded liability of the Teachers' Retirement System and for no other purpose. Any appropriation or expenditure of any of such funds for any other purpose shall be null and void and of no effect. Each month the State Department of Education shall transfer the monies apportioned to the Teachers' Retirement System Dedicated Revenue Revolving Fund to the Teachers' Retirement System of Oklahoma to be used by the System for the purposes prescribed by this section.

C. There is hereby created in the State Treasury a revolving fund for the benefit of the Oklahoma Teachers' Retirement System to be designated the "Teachers' Retirement System Dedicated Revenue Revolving Fund" which fund shall be administered by the State Department of Education. The fund shall consist of any monies as apportioned to the fund by Sections 1353, 1403 and 2352 of Title 68 of the Oklahoma Statutes. The fund herein created may be expended for the purpose set forth in subsection B of this section and in the same manner as appropriated funds. **(62-34.93)**

Note: Amended by HB 1007, Sec. 2 of the 2011 Reg. Sess. Effective 08/26/2011.

Section 703.4. Support of Oklahoma Common Schools Revolving Fund.

A. Each state individual income tax return form for tax years which begin after December 31, 2003, and each state corporate tax return form for tax years beginning after December 31, 2003, shall contain a provision to allow a donation from a tax refund for the benefit of the common schools of this state, as follows:

Support of Oklahoma Common Schools. Check if you wish to donate from your tax refund: ( ) $2, ( ) $5, or ( ) $____.

B. Except as otherwise provided for in this section, all monies generated pursuant to subsection A of this section shall be paid to the State Treasurer by the Oklahoma Tax Commission and placed to the credit of the Income Tax Checkoff Revolving Fund for the Support of Oklahoma Common Schools created in subsection C of this section.

C. There is hereby created in the State Treasury a revolving fund for the State Department of Education to be designated the "Income Tax Checkoff Revolving Fund for the Support of Oklahoma Common Schools". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies apportioned to the fund pursuant to the provisions of this section. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the State Department of Education for the purpose of funding common education in this state. Such monies shall be apportioned as and in the manner that state aid is provided to the common schools of this state. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

D. If a taxpayer makes a donation pursuant to subsection A of this section in error, such taxpayer may file a claim for refund at any time within three (3) years from the due date of the tax return. Such claims shall be filed pursuant to

the provisions of Section 2373 of Title 68 of the Oklahoma Statutes. Prior to the apportionment set forth in this section, an amount equal to the total amount of refunds made pursuant to this subsection during any one (1) year shall be deducted from the total donations received pursuant to this section during the following year and such amount deducted shall be paid to the State Treasurer and placed to the credit of the Income Tax Withholding Refund Account. **(68-2368.5)**

Section 704. Audits of Political Subdivision and Levies to Raise Public Revenue.

A. STATE TREASURER AND OKLAHOMA TAX COMMISSION

1. The State Treasurer and the Oklahoma Tax Commission shall prepare annual financial statements in accordance with the reporting requirements set forth by the Governmental Accounting Standards Board (GASB). The State Treasurer and the Tax Commission shall prescribe and implement sound internal control, accounting and recordkeeping practices consistent with and to facilitate compliance with all reporting requirements as set forth by law.

2. The annual financial statements of the State Treasurer and the Tax Commission shall be delivered by the State Treasurer and the Tax Commission to the State Auditor and Inspector within ninety (90) calendar days after the close of the state fiscal year.

3. The State Auditor and Inspector shall perform an audit of the annual financial statements of the State Treasurer and the Tax Commission for each state fiscal year. Such audits shall be conducted in accordance with auditing standards generally accepted in the United States and the standards applicable to financial audits contained in Government Auditing Standards, latest revised edition, issued by the Comptroller General of the United States. The State Auditor and Inspector shall complete the audits not later than ninety (90) calendar days after the financial statements are delivered to the State Auditor and Inspector. The annual audit reports and related financial statements shall be delivered by the State Auditor and Inspector to the Governor, President Pro Tempore of the Senate, and Speaker of the House of Representatives. The annual audit report and related financial statements of the State Treasurer shall also be delivered to the Attorney General and the members of the Cash Management and Investment Oversight Commission created by Section 71.1 of Title 62 of the Oklahoma Statutes. The annual audit report and related financial statements of the Tax Commission shall also be delivered to the Director of State Finance and the Legislative Service Bureau. The State Auditor and Inspector shall conduct unannounced cash audits of the State Treasury at least once each quarter.

4. The audit of the Tax Commission shall be continuous in nature. The Tax Commission shall furnish the necessary office space for the employees of the State Auditor and Inspector making the audit and, to the extent of the amount included in the Tax Commission's appropriation therefor, the Tax Commission shall pay the expenses of the audits, including personal services, equipment and supplies, from the appropriation.

B. STATE AGENCIES

1. Except as otherwise provided by law, the State Auditor and Inspector shall audit at least once every two (2) fiscal years the books and accounts of all state agencies whose duty it is to collect, disburse or manage funds of the state. The State Auditor and Inspector shall audit a state agency each fiscal year if that state agency is required to be audited on an annual basis pursuant to the federal Single Audit Act of 1984, as amended, 31 U.S.C., Section 7501 et seq. If the state agency is audited only once every two (2) fiscal years, the audit shall cover both fiscal years.

2. Except as otherwise provided by law, the scope of audits performed by the State Auditor and Inspector shall include all funds collected, disbursed, or managed by a state agency including, but not limited to, all special, revolving, depository, canteen, or other nonstate funds.

3. As used in this section, “state agency” means every agency, board, or commission included in the primary government of the State of Oklahoma. For purposes of this paragraph, the primary government of the State of Oklahoma includes all agencies, boards, and commissions included in the primary government in the State of Oklahoma Comprehensive Annual Financial Report. The agencies, boards, and commissions included in the primary government of the State of Oklahoma shall be determined using criteria set by the Governmental Accounting Standards Board.

4. As used in this subsection, “audit” means any of the following:

a. "financial audit", which means an audit of financial statements in order to express an opinion on the fairness with which they are presented in conformity with generally accepted accounting principles or any other comprehensive basis of accounting, as defined by the American Institute of Certified Public Accountants' Professional Standards, latest revised edition. Financial audits must be conducted in accordance with auditing standards generally accepted in the United States and the standards applicable to financial audits contained in Government Auditing Standards, latest revised edition, issued by the Comptroller General of the United States,

b. "operational audit", which means an audit conducted in accordance with applicable Government Auditing Standards, the purpose of which is to evaluate management's performance in administering assigned responsibilities in accordance with applicable laws, administrative rules, and other policies and guidelines and to determine the extent to which the internal control, as designed and placed in operation, promotes and encourages the achievement of management's control objectives in the categories of compliance, reliability of financial records and reports, and safeguarding of assets,

c. "performance audit", which means an audit of a program, activity, or function of a state agency conducted in accordance with applicable Government Auditing Standards. The term includes, but is not limited to, an audit to assess program, activity, or function effectiveness, economy and efficiency, internal control, or compliance,

d. "special or investigative audit", which means an audit with respect to a particular situation which may be, but is not required to be, conducted in accordance with applicable Government Auditing Standards, and

e. any other type of engagement conducted in accordance with Government Auditing Standards.

C. GUBERNATORIAL REQUEST

Whenever called upon to do so by the Governor, it shall be the duty of the State Auditor and Inspector to examine the books and accounts of any officer of the state or any of the officer's predecessors. The cost of the audit shall be borne by the entity to be audited.

D. COUNTY TREASURER

The State Auditor and Inspector shall examine without notice all books and accounts of each county treasurer of the state twice each year.

E. DISTRICT ATTORNEYS

1. The State Auditor and Inspector shall annually audit the books and accounts of the several offices of the district attorneys of this state. The audits shall be reported in separate reports for each entity. The audit may include, but shall not be limited to, the audit of the financial records, performance measures, and compliance with state or federal statutes and rules, and compliance with any regulations of state or federal programs. The expense of the audits shall be paid by the entity audited.

2. The State Auditor and Inspector shall examine and file a report of the accounts established within the office of each district attorney for bogus check programs, drug task force programs, child support collection programs, and any other programs receiving any nonstate funds. The reports shall be filed with the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Executive Coordinator of the District Attorneys Council.

F. DEPARTMENT OF CORRECTIONS

The State Auditor and Inspector shall perform an annual audit, as defined in paragraph 4 of subsection B of this section, of the books and accounts of the Department of Corrections. The scope of the audit shall be determined by the State Auditor and Inspector using a risk-based approach. The audit may include, but shall not be limited to, the audit of the financial records, performance measures, and compliance with any state or federal statutes and rules, and compliance with any regulations of state or federal programs. The expense of the audits shall be paid by the Department of Corrections.

G. OKLAHOMA STATE AND EDUCATION EMPLOYEES GROUP INSURANCE BOARD

The State Auditor and Inspector shall cause to be audited the books and accounts of the office of the Oklahoma State and Education Employees Group Insurance Board (OSEEGIB). The audit may include, but shall not be limited to, the audit of the financial records, performance measures, compliance with any state or federal statutes and rules, and compliance with any regulations of state programs. The audit shall be contracted out to private audit firms. The cost of the audit shall be borne by the Oklahoma State and Education Employees Group Insurance Board.

H. DISTRICT ATTORNEY REQUEST

Whenever called upon to do so by any of the several district attorneys of the state, it shall be the duty of the State Auditor and Inspector to examine the books and accounts of any officer of any public entity. The cost of the audit shall be borne by the entity audited.

I. COUNTY OFFICERS BY REQUEST

Upon request of the county commissioners of any county or the Governor, the State Auditor and Inspector shall examine the books and accounts of all or any of the officers or custodians of the various funds of the county; and payment for such examination shall be made by the county so examined.

J. AUDITORS

The State Auditor and Inspector shall have power to employ auditors. No auditor shall examine the books or records of the county of the auditor's residence in counties of under two hundred thousand (200,000) population according to the most recent Federal Decennial Census. The State Auditor and Inspector may employ on an as-needed basis only, legal counsel to carry out the statutory duties of the Office of the State Auditor and Inspector.

K. EXAMINATION OF LEVIES

It shall be the duty of the State Auditor and Inspector to examine all levies to raise public revenue to see that they are made according to law and constitutional provisions. The State Auditor and Inspector shall have the power to order all excessive or erroneous lines (levies) to be corrected by the proper officers, and shall report any irregularities to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

L. PETITION AUDITS

1. The State Auditor and Inspector shall audit the books and records of any subdivision of the State of Oklahoma upon petition signed by the requisite number of voters registered in the subdivision and meeting the requirements set out in this subsection.

2. The petition must contain the number of signatures equivalent to ten percent (10%) of the registered voters of the subdivision as determined by the county election board or, if the county election board determines that the number of registered voters in the subdivision cannot be determined due to boundary lines not conforming to precinct lines, the required number of petitioners shall be twenty-five percent (25%) of the total number of persons voting in the last subdivision-wide general election held in the subdivision. If the subdivision is a public trust, the required number of petitioners shall be the same as those required for an audit of its beneficiary. The appropriate county election board shall provide the number of signatures so required upon request.

3. The petition shall be in the form of an affidavit wherein the signatory shall declare upon oath or affirmation that the information given is true and correct and that he or she is a citizen of the entity to be audited. The petition shall clearly state that falsely signing shall constitute perjury. It shall include the signature of the individual, the name of the signatory in printed form, the individual's residential address, the date of signing, the public entity to be audited and the anticipated range of the cost of the audit provided by the State Auditor and Inspector.

4. Any person desiring to petition for an audit shall list the areas, items or concerns they want to be audited, and request from the State Auditor and Inspector the anticipated range of cost of the audit. Within thirty (30) days from the receipt of the request, the State Auditor and Inspector shall mail a petition form to the person requesting the information which shall state the anticipated range of the cost and the items or concerns to be audited. The circulators

of the petition shall have thirty (30) days from the date the petition is mailed by the State Auditor and Inspector to obtain the requisite number of signatures and return it to the State Auditor and Inspector.

5. Upon collection of the required number of signatures, the person desiring the audit shall present the signed petitions to the State Auditor and Inspector. Within thirty (30) days of receipt of the petitions, the State Auditor and Inspector shall present the petitions to the county election board located in the county in which the subdivision is located.

6. The county election board shall determine whether the signers of the petition are registered voters of the county in which the subdivision to be audited is located and whether the petition has the requisite number of signatures of such registered voters. The county election board shall certify the petition as having the required number of signatures or as failing to have the required number of signatures and return it to the State Auditor and Inspector.

7. The cost of the audit shall be borne by the public entity audited. Upon notification by the State Auditor and Inspector of receipt of the petition, certified by the county election board as having the required number of signatures, the public entity shall encumber funds in an amount specified by the State Auditor and Inspector, which shall be within the range of anticipated cost stated on the petition from any funds not otherwise specifically appropriated or allocated. Payment for the audit from such encumbered funds shall be made as work progresses, and final payment shall be made on or before its publication.

8. The names of the signers of any petition shall be confidential and neither the State Auditor and Inspector, the county election board nor the county treasurer may release them to any other person or entity except upon an order from a court of competent jurisdiction.

M. PENALTIES FOR NONPAYMENT

Except as otherwise provided by law, the cost of any services provided by the State Auditor and Inspector or as specified in an audit contract shall be borne by the entity or fund audited and shall be due and payable upon receipt of progress billing during the course of an audit. Any such costs not paid within ninety (90) days of the date of receipt of billing shall incur a penalty of Ten Dollars ($10.00) per day for each day from the date of receipt of billing. **(74-212)**

Section 704.1. Form for Joint School District Millage Certifications.

The State Auditor and Inspector shall prescribe and require the statewide use of a form for joint school district millage certifications. **(74-212.3)**

Section 705. Investigative Audits of School Districts.

A. It shall be the duty of the State Auditor and Inspector, or designee, to examine and report upon the books and financial accounts of the public, educational, charitable, penal and reformatory institutions belonging to the state; to prescribe and enforce correct methods of keeping financial accounts of the state institutions and instruct the proper officers thereof in the performance of their duties concerning the same; to examine the books and accounts of all public institutions under the control of the state at least once each year. Any officer of such public, educational, charitable, penal and reformatory institutions who shall refuse or willfully neglect to comply with such direction of the State Auditor and Inspector within a reasonable time shall be guilty of a misdemeanor.

B. Each board of regents of institutions in The Oklahoma State System of Higher Education shall require a quality control review of the internal audit function required pursuant to subsection D of Section 3909 of Title 70 of the Oklahoma Statutes for each institution under its governance at least once every three (3) years. This review shall be in accordance with the "Quality Assurance Review Manual for Internal Auditing" developed by the Institute of Internal Auditors or any successor organization thereto. A copy of the report on the quality control review shall be filed with the State Auditor and Inspector.

C. 1. The State Auditor and Inspector shall perform a special audit on elementary, independent, and technology center school districts upon receiving a written request to do so by any of the following: the Governor, Attorney General, President Pro Tempore of the Senate, Speaker of the House of Representatives, State Board of Education, or the elementary, independent, or technology center school district board of education.

2. The State Auditor and Inspector shall perform a special audit on any institution of higher education within The Oklahoma State System of Higher Education whenever the State Auditor and Inspector deems it appropriate or upon receiving a written request to do so by any of the following: the Governor, the Attorney General, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the governing board of the institution of higher education, or the president of the institution of higher education.

3. The special audit shall include, but not necessarily be limited to, a compliance audit. Such audits shall be designed to review items for management's compliance with statutes, rules, policies and internal control procedures or other items applicable to each entity. The costs of any such audit shall be borne by the audited entity and may be defrayed, in whole or in part, by any federal funds available for that purpose.

D. In addition to any special audit conducted by the State Auditor and Inspector as provided for in subsection C of this section, the State Auditor and Inspector shall, contingent upon the availability of funding, perform a special audit, without notice, on not more than four common school districts each year. The special audit shall be in a form as determined by the State Auditor and Inspector.

E. The State Auditor and Inspector shall perform a special audit without notice on the office of any district attorney or on any division of the Department of Corrections upon receiving a written request to do so by any of the following: the Governor, the Attorney General, or joint request of the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The State Auditor and Inspector shall perform a special audit without notice on any penal institution, corrections program, contract for service or prison bed space provided to the Department of Corrections, or any program administered by a district attorney's office or staff of such office whenever the State Auditor and Inspector deems it appropriate or upon receiving a written request to do so by any of the following: the Governor, the Attorney General, or joint request of the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The special audit shall include, but not necessarily be limited to, a compliance audit. Such audits shall be designed to review items for compliance with statutes, rules, policies and internal control procedures or other items applicable to each entity. The costs of any such audit shall be paid by the state agency and may be defrayed, in whole or in part, by any federal funds available for that purpose through any audited program. **(74-213)**

Section 706. Authority to Engage State Auditor and Inspector For Audits.

Notwithstanding the provisions of any other law, any state agency, board, commission, city or town, common school, technology center school, county, institution of higher education, public trust or political subdivision of the state may enter into agreements with the State Auditor and Inspector to perform audits, investigative or consultant services and the entity shall pay the State Auditor and Inspector for the services. Payments made by such entity shall be deposited in the State Treasury to the credit of the State Auditor and Inspector Revolving Fund created by Section 227.9 of this title. Expenses incurred in auditing such books and accounts, including compensation of necessary personnel, including consultants, or causing the books and accounts to be audited, shall be paid by the entity in the same manner as now provided by law for other disbursements. **(74-227.8)**

Section 707. (Omitted)

Section 708. Polling Places - Procedures.

A. Except as otherwise provided by law, the general election laws shall apply to all elections for school districts and technology center school districts. When it is impossible or impractical to apply the general election laws for school districts and technology center school districts, the Secretary of the State Election Board shall prescribe procedures consistent with the purposes of the general election laws.

B. All precincts totally or partially contained within the boundaries of a school district or a technology center school district shall be open for all elections held by such school district or technology center school district except as otherwise provided in this section. A school district or technology center school district may authorize any precinct which is only partially located within the boundaries of the district not to be opened by certifying to the county election board in the resolution calling for an election that no persons reside within that portion of the precinct contained within the boundaries of the district.

C. The Secretary of the State Election Board is authorized to promulgate rules setting forth procedures to allow the board of education of a school district or career technology school district to request that a precinct only partially located within the district's boundaries, and in which there are one hundred (100) registered voters or less in the portion of the precinct located within the district, not to be opened. The procedures shall ensure that any registered voters affected are notified of the precinct closing and of other voting options. **(26-13A-101)**

Note: See Section 720 as to absentee ballots.

Note: A School District election cannot be scheduled for any date during the 20 days immediately preceding the date of a Primary, Runoff Primary or General Election (26-101, 26-102, 26-103)

The failure of a notice of school bond election to state locations of combined boxes and to include information about absentee voting was not sufficient to invalidate election because no prejudice was shown and no allegations were made that anyone failed to vote because of deficient notice. *Fuller v. Board of Education of Elementary School Dist. No. 22*, 875 P.2d 1156 (Okla. App. 1994)

To call for an election by petition of the people to vote on issues pertaining to imposition or repeal of an operating millage levy, statute requires a majority of the school district electors in an area vo-tech school district to sign the petition. *December 2, 1988 (AG Op. No. 88-64)*

Provisions of Oklahoma School Code regulating elections of school board members prevail over conflicting city charter provisions. *November 20, 1981 (AG Op. No. 81-287)*

Special election to secure vote that is merely advisory and not binding on board of education is not authorized by law. *May 14, 1980 (AG Op. No. 80-82)*

Oklahoma's durational residence requirements for voter eligibility are unconstitutional. *AG Op. April 20, 1972*

Oklahoma Constitution provisions limiting right to vote on local support levy to property taxpayers violate Equal Protection Clause of the 14th Amendment to the U.S. Constitution: and all qualified electors are eligible to vote on the levy. *AG Op. December 14, 1972*

Elector allowing registration to expire becomes ineligible to vote in school district election. *AG Op. April 29, 1971*

Person owning land in school district and paying taxes thereon can be denied right to vote at local support levy election in district solely because he lives in another district. *AG Op. February 5, 1970*

Temporary absence does not deprive one of his residence. *Jones v. Burkett*, 346 P.2d 338 (Okla. 1959)

Residence is place where one's habitation is fixed without present purpose of removing therefrom. *Jones v. Burkett*, 346 P.2d 338 (Okla. 1959)

School district electors of territory annexed to another school district become eligible to vote in district to which territory is annexed, immediately when annexation becomes final. *AG Op. January 21, 1963*

Certification by voter as to residence and registration sufficient, but election official can require other evidence, such as voter's identification card, affidavit, etc. *AG Op. October 5, 1961*

Person living in annexed district can vote at school elections held in annexing district located in another county. *AG Op. April 17, 1961*

Section 709. Applicability.

Unless otherwise provided by law, all elections for every school district and technology center school district shall be conducted in accordance with provisions of this article. **(26-13A-102)**

Section 710. Election Dates - Board Member - Nominations - Levy or Levies - Special Elections.

A. The election of members of the board of education of every school district and technology center school district shall be conducted on the second Tuesday in February of each year, except in any year when a Presidential Preferential Primary is held in February, then the election shall be held on the same day as the Presidential Preferential Primary.

If no candidate receives more than fifty percent (50%) of the votes cast in the election provided for in this subsection, an election between the two candidates with the highest number of votes shall be conducted on the first Tuesday in April of that year.

B. Elections on the question of making a levy or levies for schools under Section 9, Section 9B or Section 10 of Article X of the Oklahoma Constitution shall be held on the second Tuesday in February of each year, except in any year when a Presidential Preferential Primary is held in February, then the election shall be held on the same day as the Presidential Preferential Primary.

C. The board of education of every school district or technology center school district may call a special election for the purpose of voting on any matter or question authorized by law. **(26-13A-103)**

The statute is unambiguous and authorizes the calling of a special election for the re-submission of a levy election which has failed. *Protest Against Tax Levy of Ardmore Independent School No. 19*, 1998 OK 43, 959 P.2d 580.

Section 711. Special Election Dates.

A. No election required to be conducted by any county election board shall be scheduled for a day other than Tuesday.

B. Except as otherwise provided by law, no special election shall be held by any county, school district, technology center school district, municipality or other entity authorized to call elections except on:

1. The second Tuesday of January, February, May, June, July, August, September, October and November and the first Tuesday in March and April in odd-numbered years;

2. The second Tuesday of January and February, the first Tuesday in March and April, the last Tuesday in June, the fourth Tuesday in August, and the first Tuesday after the first Monday in November of any even-numbered year.

C. In the event that a regular or special election date occurs on an official state holiday, the election shall be scheduled for the next following Tuesday. **(26-3-101)**

Note: Amended by HB 1615, Sec. 4 of the 2011 Reg. Sess. Effective November 1, 2011.

Note: See Section 719 for prohibited dates.

Section 712. School Districts Located in More than One County - Certification.

For school districts and technology center school districts located in more than one county, the county election board located in the county wherein supervision of the district is located shall be responsible for certifying its elections. The Secretary of the State Election Board shall prescribe procedures for certification. **(26-13A-104)**

Section 713. Declaration of Candidacy.

Candidates for member of the board of education of every school district or technology center school district shall file declarations of candidacy in the same place and with the same officials as candidates for county office. The declaration of candidacy to be signed by the candidate shall have an attachment to be signed by the candidate listing the requirements of a candidate for election or reelection to a school board as set forth in Sections 13A-106 and 5-105a of this title and Sections 5-110, 5-110.1, and 5-113 of Title 70 of the Oklahoma Statutes, and the candidate shall swear or affirm that he or she is eligible to run for the office or serve in the office if elected. Candidates shall file on the first Monday in December through the following Wednesday. For school districts and technology center school districts located in more than one county, filing may be either in the county wherein supervision of the district is located or in the county where the candidate resides. **(26-13A-105)**

Section 713.1. Contest of Candidacy.

Any candidate, hereafter referred to as petitioner, may contest the candidacy of any other candidate for the same office, hereafter referred to an contestee, by filing a written petition with the secretary of the election board with whom said candidate filed the declaration of candidacy. In the event only one candidate files for an office, a petition contesting the candidacy may be filed by any registered voter who is eligible to vote for the candidate. **(26-5-118)**

> If an incumbent member of a board of education fails to satisfy the 15-hour continuing education requirement during any full term of office, that board member is ineligible to run for reelection. If, however, no one challenges his/her candidacy and the member is reelected, the member is eligible to hold office. Once reelected, the school board member possesses a proper certificate of election, and the school board cannot refuse to seat the member. Even if the re-elected incumbent member holds office illegally, the actions taken by the board are valid. *July 16, 2001 (AG Op. No. 01-33)*

Section 714. Qualifications of Candidates - Eligible Voters.

A. To be eligible to be a candidate for member of the board of education of a school district or technology center school district, a person must have resided in the district or, if the board seat is in an independent district, have resided in that district for at least six (6) months preceding the first day of the filing period, and have been a registered voter registered with the county election board at an address located within the geographical boundaries of the district for six (6) months preceding the first day of the filing period. Beginning May 1, 1990, no person shall be eligible to be a candidate for or elected to be a member of the board of education of a school district or technology center school district unless the person has been awarded a high school diploma or certificate of high school equivalency. In school districts that are divided into election districts, a candidate must have resided in the district for at least six (6) months preceding the first day of the filing period and have been a registered voter registered with the county election board at an address located within the geographical boundaries of the election district for six (6) months preceding the first day of the filing period. Beginning May 1, 1990, no person shall be eligible to be a candidate for or elected to be a member of the board of education unless the person has been awarded a high school diploma or certificate of high school equivalency.

B. To be eligible to vote in a school district election or a technology center school district election, a person must be registered with the county election board at an address located within the geographical boundaries of the district. To be eligible to vote in an election district election within a school district, a person must be registered with the county election board at an address located within the geographical boundaries of the election district. **(26-13A-106)**

> Resident of elementary school district is not eligible to be a candidate for or member of board of education of independent school district where resident's children will attend high school. Candidate must be resident of district governed by board of education. *May 4, 2000 (AG Op. No. 00-24)*

Section 715. Maps to be Provided.

The State Department of Education shall provide the State Election Board with information concerning the boundary lines of school districts within the state. The State Election Board shall provide the county election boards with maps of each county and of individual precincts within each county showing the boundary lines of school districts and with software for the Oklahoma Election Management System capable of assigning addresses within the county to the appropriate school district. **(26-13A-108)**

Section 716. Resolution Calling for Regular or Special Election.

A. The board of education of every school district and technology center school district shall notify, by resolution, the secretary of the county election board responsible for certifying its election of any regular or special election.

B. The resolution calling for an election or elections shall include, but shall not be limited to, the following information:

1. Date or dates of the election or elections;

2. Identification of the office or offices to be filled, qualifications of candidates for office and the length of term of each;

3. Information describing election districts within the school district, if applicable;

4. Ballot titles of the question or questions to be voted upon;

5. Information describing the persons eligible to vote in the election; and

6. All other information necessary for conducting the election or elections.

C. Resolutions calling for regular elections shall be delivered to the secretary of the county election board no fewer than fifteen (15) days preceding the first day of the filing period. The resolution shall contain all questions to be voted upon at the election to be held on the day as required in Section 13A-103 of this title.

D. Resolutions calling for special elections shall be delivered to the secretary of the county election board no fewer than sixty (60) days preceding the election.

E. In addition to notifying the secretary of the county election board of the election by resolution as required in this section:

1. For elections of members of the board of education of a school district, the board shall also publish a legal notice for each regular and special election in one issue of a legal newspaper of the county, as defined by Section 106 of Title 25 of the Oklahoma Statutes, in the county wherein the school district administrative office is located at least ten (10) days prior to the filing period and shall issue a news release of the upcoming filing period and election to a newspaper of general circulation in the county wherein the school district administrative office is located. The legal notice and press release shall include, but shall not be limited to, the dates of the filing period for the election or elections and the office or offices to be filled. The notice shall also be posted at the school district administrative offices and county election board offices; and

2. For elections of members of the board of education of a technology center school district, the board shall also publish a legal notice for each regular and special election in one issue of a legal newspaper of the county, as defined by Section 106 of Title 25 of the Oklahoma Statutes, in each county wherein the school district is a member in the technology center district at least ten (10) days prior to the filing period. Additionally, the technology center school district shall issue a news release of the upcoming filing period and election to a newspaper of general circulation in each county wherein the school district is a member in the technology center district. The legal notice and press release shall include, but shall not be limited to, the dates of the filing period for the election or elections and the office or offices to be filled. The notice shall also be posted in each county at the technology center school district administrative offices, if such office exists in the county, and county election board office in each county. **(26-13A-109)**

Section 717. Vacancy - How Filled.

A. Except for a vacancy in the position of the chair of the board elected pursuant to Section 1 of this act, vacancies for members of the board of education of every school district or technology center school district shall be filled by appointment by the board. Persons appointed to fill such vacancies in the first half of the term of office for the board position shall serve only until the next succeeding election, at which time the office which they hold shall be placed on the ballot for the balance of the unexpired term. Vacancies filled by appointment following the delivery of the resolution calling for regular elections to the secretary of the county election board shall be filled until the regular elections the following year. Persons elected to fill unexpired terms shall begin those terms at the next regular meeting of the board of education following the election. Persons appointed to fill such vacancies after the first half of the term of office for the board position shall serve for the balance of the unexpired term. No person shall be appointed to a board of education who does not meet the eligibility qualifications needed to be a candidate for such position as provided for in Sections 13A-106 of this title and Sections 5-110, 5-110.1 and 5-113 of Title 70 of the Oklahoma Statutes.

B. If the board of education does not fill the vacancy by appointment within sixty (60) days of the date the board declared the seat vacant, the board of education shall call a special election to fill the vacancy for the unexpired term.

C. In districts having a chair of the board elected by the electors of the district, a vacancy in the office of the chair of the board shall be filled by the vice-chair who shall continue to serve as the board member for the board district for which elected. The board shall call a special election to elect a chair of the board to serve the remainder of the unexpired term. The special election shall be held in conjunction with the next regular, district-wide school election, conducted pursuant to Section 13A-103 of Title 26 of the Oklahoma Statutes, that is held more than ninety (90) days after the vacancy occurs. The successful candidate in the special election shall assume office as provided for district board of education members and shall serve the remainder of the unexpired term. **(26-13A-110)**

If school board member is not a resident of the school district governed by the board, the board may declare a vacancy and appoint a new member to the board. If necessary, the attorney general or district attorney may file an action to remove an elementary school district resident elected to serve on the board of education of an independent school district. *May 4, 2000 (AG Op. No. 00-24)*

A board of education may schedule an election to fill a vacancy on the board prior to the end of the 60-day appointment period if, after due diligence, the board concludes that it cannot agree on an eligible and willing appointee. *AG Inf. Op. June 26, 1997.*

Vacancy in office of member of board of education of independent district occurs immediately when member accepts and qualifies for another office, and if vacancy is not filled by board within 70 days thereafter, an election to fill the vacancy should be called. *AG Op. February 11, 1963*

Resignation of member of board of education of independent district should be submitted to and accepted by the board. *AG Op. May 5, 1961*

Failure of member of board of education to attend meetings might constitute abandonment of office with resulting vacancy to be determined by board of education. *AG Op. February 1, 1958*

Where board of education has been reduced to 4 members any 3 members can meet and transact business, if all 4 members have been notified of meeting; and if only 3 members appear at such meeting, 2 of those present can take official binding act. *AG Op. December 31, 1953*

Fact of resignation of person from office of member of board of education of independent school district and that vacancy exists in said office determinable by remaining members of board and the board, as then constituted, is authorized to fill vacancy. *Bowen v. Brock*, 244 P.2d 546 (Okla. 1952)

Section 718. Cost of Elections - Reimbursement to County Election Board.

A. At elections held concurrently with county and state elections, the board of education of every school district and technology center school district shall reimburse the county election board only for those costs exclusively attributable to the district.

B. At elections not held concurrently with county and state elections, the board of education of every school district and technology center school district shall reimburse the county election board for all costs of the election. If more than one entity holds an election concurrently, then costs shall be assessed proportionately. **(26-13A-111)**

Section 719. Election Date Prohibition.

A. A Presidential Preferential Primary for recognized political parties shall be held on the first Tuesday in March in each of the years in which the President and Vice President of the United States are to be elected.

B. If one or more states having a mutual boundary with this state establish a single date for a regional primary, the State Election Board is authorized to change the date of the Oklahoma primary to the date established for the regional primary, as long as the date is not before the first Tuesday in March.

C. No county, municipality, school district or other entity authorized by law to call elections shall schedule an election on any date during the twenty (20) days immediately preceding the date of any such Primary Election. However, this subsection shall not apply to home rule municipalities. **(26-20-101)**

Note: Amended by HB 1614, Sec. 1 & SB 1615, Sec. 17 of the 2011 Reg. Sess. Effective November 1, 2011.

Section 720. Absentee Ballots.

A. Absentee ballots shall be provided for any election conducted by a county election board. A charter municipality may adjust its filing period and election dates to allow sufficient time for the mailing and return of absentee ballots if the filing period or election dates provided in the municipality's charter do not provide sufficient time for the mailing and return of absentee ballots.

B. Any election called by a charter municipality simultaneously with any other entity's election held in any part of the municipality shall provide no less time for the mailing and return of absentee ballots than the least time provided by the other entity. **(26-14-101)**

Section 721. Special Elections - Time Period.

In the event the Governor or the Legislature shall call for a special statewide election on any measure to be submitted to a vote of the people, the election shall be held not fewer than seventy (70) days from the date the election is called. Such special statewide election may be on the same date as a primary or general election or may be on some other date set by the Governor or the Legislature. In the event the board of county commissioners or the governing body of a municipality or school district or technology center school district or any other governmental subdivision calls for a special election on any question, the election shall be held not fewer than sixty (60) days from the date the election is called; provided, that a special election called by a school or technology center school district to be held on the date of the annual school runoff election shall not be held fewer than forty-five (45) days from the date the special election is called. A special election to fill a vacancy for member of the board of education of a school district or to fill a vacancy for municipal office shall be scheduled not fewer than sixty (60) days from the date the election is called. **(26-12-116)**

Note: Amended by SB 1615, Sec. 13 of the 2011 Reg. Sess. Effective November 1, 2010.

Notice for the calling of a special election to be held on the date of the annual school runoff election need only be given 45 days before special election is to be held, even if there is no runoff election for a board position. *Protest Against Tax Levy of Ardmore Independent School No. 19*, 1998 OK 43, 959 P.2d 580.

Section 722. Payment of Claims For Election Expenses.

A. When any county, municipality, school district or other governmental entity authorizes an election to be conducted by the county election board, the secretary of the county election board shall, not less than thirty-five (35) days prior to the election, submit to the governmental entity for whom the election is authorized:

1. An itemized estimate of the number of precinct inspectors, judges, clerks, and absentee voting board members necessary for the election; and

2. An estimate of the compensation and employer's share of any benefits to be provided to each precinct inspector, judge, and clerk, and absentee voting board members.

B. Not less than fifteen (15) days prior to the election, the county, municipality, school district or other governmental entity authorizing the election shall submit to the secretary of the county election board an amount of funds equal to the estimate of compensation and benefits for precinct inspectors, judges, clerks, and absentee voting board members as provided in subsection A of this section. If such amount is not submitted ten (10) days prior to the election, the secretary of the county election board shall not be required to hold the election. Upon receipt of the funds, the secretary of the county election board shall deposit the funds in the County Election Board Special Depository Account.

C. The secretary of the county election board shall issue vouchers for the compensation and benefits of precinct inspectors, judges, clerks, and absentee voting board members from the County Election Board Special Depository Account, pursuant to Section 681 et seq. of Title 19 of the Oklahoma Statutes. The secretary of the county election board shall provide the vouchers to the precinct inspector, except the voucher for the inspector and absentee voting board members, at the time the inspector receives supplies and ballots for the election. The vouchers shall be distributed to the appropriate precinct judges and clerks upon closing of the polls on the day of the election and to absentee voting board members upon completion of their prescribed duties, according to procedures to be prescribed

by the Secretary of the State Election Board. Each precinct inspector, judge and clerk shall sign a form prescribed by the Secretary of the State Election Board acknowledging receipt of compensation and benefits. The inspector shall return the form, together with any unclaimed vouchers, to the county election board, together with the results of the election and other supplies and materials. At such time, the secretary of the county election board shall provide a voucher for payment to the inspector. The secretary of the county election board shall return any unclaimed vouchers to the county treasurer within seven (7) days after the election. If any additional vouchers for compensation and benefits are required, the secretary of the county election board shall issue such vouchers not less than seven (7) days after the election. In no event shall compensation be made until after services have been rendered.

D. As soon as practicable after conducting an election for a municipality, school district, or other governmental entity, except the state or county, the secretary of the county election board shall submit a claim to the governing body of the entity for whom the election was conducted. The claim shall itemize all expenses associated with the election, and shall deduct any amount paid by the municipality, school district or other governmental entity for the compensation and employer's share of any benefits provided to precinct inspectors, judges, clerks, and absentee voting board members pursuant to the provisions of subsection B of this section. Upon receipt of such itemized claim, the governing body shall make payment to the county election board within thirty (30) days. Upon receipt of the payment, the secretary of the county election board shall deposit the payment in the County Election Board Special Depository Account. The secretary shall disburse payments for the expenses incurred in the election, pursuant to Section 681 et seq. of Title 19 of the Oklahoma Statutes.

E. The State Election Board shall provide the compensation and employer's share of benefits for precinct inspectors, judges, clerks, and absentee voting board members in the payment made to the respective counties for elections for which said precinct inspectors, judges, clerks, and absentee voting board members are paid by the State Election Board, in the same manner as provided in subsections A and B of this section. For the foregoing elections, the county shall place in the County Election Board Special Depository Account an amount of funds equal to Two Dollars ($2.00) for each inspector, judge, and clerk at each election in the same manner as provided in subsections A and B of this section. The Secretary of the State Election Board shall prescribe a procedure by which the State Election Board or the county shall be reimbursed for any overpayment made to a county election board for compensation and employer's share of benefits paid to precinct inspectors, judges, clerks, and absentee voting board members. **(26-3-105.1)**

Section 723. Expenditure of Public Funds to Affect Elections.

Any official in this state who shall direct or authorize the expenditure of any public funds under his care, except as specifically authorized by law, to be used either in support of, or in opposition to, any measure which is being referred to a vote of the people by means of the initiative or referendum, or which citizens of this state are attempting to have referred to a vote of the people by the initiative or referendum, shall be deemed guilty of a misdemeanor, and the office held by such party shall be adjudged vacant and shall be filled in the manner prescribed by law. **(26-16-119)**

> It is not unlawful under 26 O.S. 16-119 for school board whose funding will be affected by outcome of an initiative or referendum election to make expenditure of funds for employee compensation contingent upon outcome of election. *May 22, 1996 (AG Op. No. 96-23)*
>
> Public officer who voted to pay dues to private association for express purpose of such private association using such dues to support or oppose initiative or referendum would be subject to criminal liability under 26 O.S. 16-119. *May 13,1996. (AG Op. No. 95-14)*
>
> There is no state statutory or constitutional authority for officials to use public funds to advocate specific election result. Generally, public funds cannot be used to promote specific election result unless factual circumstances create an exception. Use of public funds to oppose or support matters referred to voters by initiative or referendum is prohibited by 26 O.S., §16-119 which applies to school bond elections referred to voters by means of initiative or referendum. *June 23, 1992 (AG Op. No. 91-27)*

Section 723.0. Use of Public Funds, Property, Time, and Personnel to Influence Elections.

(a) A person shall not use or authorize the use of public funds, property, or time, to participate or assist in the organization of or preparation for a fundraiser for a campaign or in any solicitation of funds for or against a candidate for state office or a ballot measure.

(b) A person shall not use or authorize the use of public funds, property, or time to produce, print, publish, broadcast, or otherwise disseminate material designed or timed to influence the results of an election for state office or a ballot measure, except political activities or statements inherent to or part of the function of a candidate or an elective officer or in the performance of a state officer's or state employee's duties or as allowed by law, regardless of the lack of specific reference to the election.

(c) Subsection (b) shall not prevent:

(1) use of a meeting room, auditorium or similar space in a public facility, provided that:

(A) if a fee is normally charged for use of the facility, the fee is the same for all candidates for state office, political parties or ballot measure committees for such use;

(B) the facility is not required for public purposes during the applicable time period;

(C) the same opportunity for use of the facility is given to all candidates for a particular office who request its use on a first-come-first-serve basis;

(D) the same opportunity for use of the facility is given to all political parties which request its use on a first-come-first-serve basis; and

(E) the same opportunity for use of the facility is given to all ballot measure committees which request its use on a first-come-first-serve basis;

(2) incidental use of public building sidewalks, common grounds, parking lots and areas within public buildings;

(3) the handing out of leaflets, brochures, or partisan or nonpartisan campaign materials on sidewalks, common grounds, or parking lots and within public buildings which are not used for the conduct of state government business; or

(4) any other activity the exercise of which is guaranteed by the Oklahoma Constitution or the United States Constitution.

(d) A person shall not authorize the use of state officers or state employees for the purposes set forth in Subsections (a) and (b) while in a uniform that identifies him or her as a state officer or state employee or during the hours that the state officer or state employee is officially in work status for a governmental entity.

(e) A person shall not print or distribute or cause to be printed or distributed, at public expense, a newsletter or other mass mailing of promotional material on behalf of an elective officer from the day the officer files a declaration of candidacy through the date of the election for the office.

(f) A person shall not solicit, verbally or in writing, in a facility ordinarily used for the conduct of state government business, a contribution from a state employee.

(g) A person shall not distribute or post, or cause to be distributed or posted, in a facility ordinarily used for the conduct of state government business, a communication designed to influence the outcome of an election for state office or a ballot measure.

(h) This section, except for Subsection (e), does not apply to:

(1) activities that are part of the ordinary conduct of the governmental entity; and

(2) nonpartisan voter registration activities. **(74-257:10-1-3)**

Section 723.1. Political Subdivisions Ethics Act.

Sections 15 through 39 of this act shall be known and may be cited as the "Political Subdivisions Ethics Act". **(51-301)**

Section 723.2. Legislative Intent.

It is the intent of the Legislature that the law reflect the following items:

1. That the operation of government be properly conducted so that public officials are independent and impartial and that a public office is not used for private gain other than the remuneration provided by law. Public interest, therefore, requires that the law protect against any conflict of interest and establish standards for the conduct of elected officials and government employees in situations where conflicts may exist;

2. That the government attract those citizens best qualified to serve. Thus, the law against conflict of interest must be so designed as not to impede unreasonably or unnecessarily the recruitment and retention by government of those best qualified to serve. Public officials should not be denied the opportunity, available to all other citizens, to acquire and retain private economic interests except when such interests conflict with the responsibility of such officials to the public;

3. That the campaign process in this state operate to ensure that the people of this state elect their representatives in an informed and equitable manner and that qualified persons become candidates for public office with full confidence in the ability of the process to protect them from wrongful allegations of unlawful election practices;

4. That the people be free to seek redress of their grievances and express their opinions to all government officials on current issues and pending legislative actions at every level of government;

5. That these objectives of protecting the integrity of government and of facilitating the recruitment and retention of qualified personnel by prescribing restrictions against conflict of interest without creating unnecessary barriers to public service be implemented;

6. That no officer or employee of any political subdivision of this state have any interest, financial or otherwise, direct or indirect; engage in any business transaction or professional activities; or incur any obligation of any nature that is in substantial conflict with the proper discharge of duties in the public interest; and

7. That all public officials and public employees are agents of the people and hold their positions for the benefit of the people. They are bound to uphold the Constitution of the United States and the Constitution of this state and to perform efficiently and faithfully their duties under the laws of the federal, state and local governments. Such officers and employees must observe, in their official acts, high standards of ethics regardless of personal consideration, recognizing that promoting the public interest and maintaining the respect for their government must be a foremost concern. **(51-302)**

Section 723.3. Administration of Act.

A. The provisions of the Political Subdivisions Ethics Act shall be administered as follows:

1. The Ethics Commission created in Section 1 of Article XXIX of the Oklahoma Constitution shall administer the Political Subdivisions Ethics Act with respect to candidates or candidate committees for county office, campaigns for or against county ballot measures and public officials and public employees elected or appointed to serve in county government;

2. The municipal clerk shall administer the Political Subdivisions Ethics Act with respect to candidates or candidate committees for municipal office, committees supporting or opposing candidates for municipal office and campaigns for or against municipal ballot measures other than those involving utility franchises; and

3. The clerk of the board of education shall administer the Political Subdivisions Ethics Act with respect to candidates or candidate committees for school district office or committees supporting or opposing candidates for school district office.

B. The municipal clerk and the clerk of the board of education shall not receive any complaints of violations of the Political Subdivisions Ethics Act and shall be limited to the duties prescribed in paragraphs 1, 2, 3, 4 and 5 of subsection A of Section 19 of this act. **(51-303)**

Section 723.4. Definitions.

As used in the Political Subdivisions Ethics Act:

1. "Business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted for profit;

2. "Calendar quarter" means each three-month period of a calendar year, beginning on January 1, April 1, July 1 and October 1 of each year;

3. "Campaign" means and includes all activities for or against the election of a candidate to a specific local office for a specific term from the date of the first contribution, the making of the first expenditure, the filing of a declaration of candidacy or a public announcement of intent to seek such election, whichever is first;

4. "Candidate" means a person who has filed a notification and declaration of candidacy for any public office with the secretary of any county election board. The term "candidate" shall include a person whose candidacy is unopposed, but shall not include any person who has withdrawn such notification and declaration of candidacy;

5. "Candidate committee" means the committee, consisting of one or more persons who may be the candidate only, designated by a candidate to promote the candidate's candidacy and serve as the recipient of all contributions and the disburser of all expenditures for the candidate;

6. "Committee" means a candidate committee, political action committee, political party, or organization;

7. "Compensation" means money, service, facility or thing of value or financial benefit which is received or is to be received in return for or in connection with services rendered or to be rendered;

8. "Complainant" means a person filing a complaint pursuant to the provisions of Section 21 of this act;

9. "Contributor" means and includes every person or committee who makes a contribution;

10. "Contribution" means and includes any money, property, or in-kind services, including but not limited to, printing or engraving, radio or television time, billboards, advertising, subscription, forgiveness of indebtedness, personal or professional services or any other thing of value whatsoever which is given or loaned to be used in a campaign. The term "contribution" shall not include:

a. money loaned to a candidate in connection with his own campaign by a bank, savings and loan association or credit union which is to be repaid with interest at a rate comparable to that of loans for equivalent amounts for other purposes,

b. the value of services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, organization, political action committee or political party,

c. for purposes of the contribution limits set forth in Section 2 of this act, the transfer of any funds by a political action committee to another political action committee, provided the committee has been established as provided by law if the transferring committee and the receiving committee have been established, directly or indirectly, and are administered or financially supported, directly or indirectly, by a common organization, or

d. any payment or obligation incurred by a corporation, labor organization, membership organization, cooperative or corporation without capital stock for the establishment, administration, and solicitation of contributions to a separate segregated fund or political action committee to be utilized for political purposes;

11. "Commission" means the Ethics Commission;

12. "Election" means a Primary, Run-off Primary, General, or Special Election in which a candidate is on the ballot;

13. "Election board" means the appropriate county election board in reference to candidates who file a declaration of candidacy with the county election board;

14. "Expenditure" means a payment, distribution, contribution, loan, advance, compensation, reimbursement, fee deposit or gift of money securement, or any other thing of value, or services including but not limited to postage, telephone, telegraph, printing, advertising, travel, lodging, meals or entertainment for which payment is made with private or public funds, and includes a contract, promise or agreement to make an expenditure, whether or not legally enforceable;

15. "Family" means an individual, his or her spouse, if any, and all children under the age of eighteen (18) years residing in the same household;

16. "Governmental entity" means any department, commission, authority, council, board, bureau, committee, legislative body, agency, public trust, or other establishment of a political subdivision of this state;

17. "Income" means any money or thing of value received, or to be received as a claim on future services, whether in the form of a fee, salary, gift, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of recompense or any combination thereof; provided, the term "income" shall not include campaign contributions;

18. "Local office" means all elective offices for which declarations of candidacy are filed with the secretary of any county election board;

19. "Ministerial action" means an action that a person performs in a prescribed manner which involves no discretionary judgment;

20. "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, union, education or action group or committee or entity with two or more persons having a joint or common political interest;

21. "Person" means an individual, corporation, association, firm, partnership, labor union or labor organization, committee, club or other organization, or a group of persons who are voluntarily acting in concert;

22. "Political action committee" means a combination of at least two individuals, or a person other than an individual:

a. with the primary or incidental purpose of supporting or opposing a candidate or political party, except those required to file with the Federal Election Commission or the Ethics Commission, and

b. which accepts contributions or makes expenditures aggregating at least Two Hundred Dollars ($200.00) during a calendar year;

23. "Political party" means any political party so recognized for the purpose of having candidates appear on the ballot;

24. "Public employee" means any person who is employed by and receives compensation from any governmental entity, but shall not mean independent contractors or public officials;

25. “Public official” means an elected or appointed official in the executive or legislative branch of a political subdivision of the state;

26. “Represent” or “representation” means any formal or informal attendance before, or any written or oral communication with, or the filing of documents with any governmental entity on behalf of a person or organization;

27. “Respondent” means a person named in a complaint filed pursuant to the provisions of Section 21 of this act;

28. “Source” means the name, address, and description of the principal business activity of a person or organization; and

29. “Substantial financial interest” means an interest that could result in directly or indirectly receiving a substantial pecuniary gain or sustaining a substantial pecuniary loss as a result of ownership or interest in a business entity, or as a result of salary, gratuity or other compensation or remuneration from any person, partnership, organization or association. **(51-304)**

Section 723.5. Duties of Ethics Commission.

The Ethics Commission shall:

1. Serve as the official repository for financial disclosure statements, campaign contributions and expenditures reports and such other documents filed by candidates or candidate committees for county office and public officials and public employees of county government as pertain to its duties;

2. Accept and file any information voluntarily supplied that exceeds the requirements of the Political Subdivisions Ethics Act; provided, the Commission shall not require the disclosure of any information other than as specifically provided by the Political Subdivisions Ethics Act;

3. Make available from its website forms upon which information shall be provided as required by the Political Subdivisions Ethics Act and copies of the Political Subdivisions Ethics Act for all candidates, committees, officials, and employees required to submit such forms;

4. Make campaign contributions and expenditures reports, political action committees' registrations and financial disclosure statements filed with it available during regular business hours to the public subject to the Oklahoma Open Records Act, Section 24A.1 et seq. of this title. No original or record copies of reports, registrations and statements shall be removed from the office of the Commission. No records or materials of the Commission shall be subject to the Oklahoma Open Records Act unless expressly provided for in this act;

5. Preserve such reports, registrations and statements in accordance with the Records Management Act, Section 201 et seq. of Title 67 of the Oklahoma Statutes, or for a period of at least two (2) years from date of receipt;

6. Issue ethics interpretations pertaining to the provisions of the Political Subdivisions Ethics Act when requested by any person or committee under the jurisdiction of the Commission and publish its ethics interpretations annually; provided, that failure of a person to request an ethics interpretation shall have no relevance in any subsequent proceeding under the Political Subdivisions Ethics Act. Provided further, such interpretation shall be binding on the Commission in any subsequent proceeding under the Political Subdivisions Ethics Act. Sufficient deletions shall be made by the Commission in published ethics interpretations to prevent the disclosure of the identity of the persons involved in the situations presented in the ethical interpretations;

7. Pursuant to a complaint filed under the provisions of Section 307 of this title and as specifically authorized by law, hold hearings, subpoena witnesses upon a vote of a majority of the members of the Commission, and compel their attendance and testimony, administer oaths and affirmations, take evidence, and require by subpoena the production of any books, papers, records, or other items relevant to the performance of the Commission's duties or exercise of its powers;

8. Enforce and collect such late filing fees as provided for by the Political Subdivisions Ethics Act. The Commission shall establish a procedure by which an employee of or person contracting with the Commission shall

conduct a hearing regarding any late filing fee imposed upon written request. The hearing shall be conducted within thirty (30) days of the request. The decision of the person conducting the hearing may be appealed to the Commission upon written request; and

9. Initiate and continue programs for the purpose of educating officials, employees and citizens of political subdivisions of this state on matters of ethics and government service. **(51-305)**

Section 723.6. Rules and Regulations.

A. The Ethics Commission shall be authorized to promulgate rules and regulations pursuant to the Administrative Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma Statutes, for the purpose of carrying out its duties pursuant to the Political Subdivisions Ethics Act with respect to candidates and candidate committees for county office, for campaigns for county initiatives and referenda and for county officers and employees.

B. The Ethics Commission shall adopt rules and regulations providing standards for allowing registrations, reports and statements to be filed on magnetic media or in other machine-readable form with the Commission. **(51-306)**

Section 723.7. Procedures for Complaints.

A. Except as otherwise provided in this section, complaints alleging violations of the provisions of this act by persons, committees, candidates, public officials or public employees of county government shall be filed with the Ethics Commission. The Commission shall not accept a complaint alleging a violation by a candidate for local office other than county office. Such complaint must be filed by the complainant with the district attorney of the county in which the violation is alleged to have occurred.

B. The Commission shall not initiate any investigation or other proceedings except:

1. Pursuant to a complaint which meets the requirements of this section; or

2. Pursuant to the provisions of Section 23 of this act.

C. Complaints shall be made in writing and signed by the person making the complaint and shall be verified and notarized. Each complaint shall state specifically the sections of the Political Subdivisions Ethics Act that the person named in the complaint is alleged to have violated and the date of the alleged violation, which shall not be more than two (2) years before the date the complaint is filed. The Executive Director shall be authorized, without action of the Commission, to refuse to accept any complaint which does not meet the requirements of this section and shall notify the person filing the complaint of the reasons for such refusal. The Executive Director shall, without action of the Commission, forward any complaint filed with the Commission, over which the Court on the Judiciary has jurisdiction to the Court on the Judiciary. The Executive Director shall forward any complaint alleging a violation by a member of the Commission to the Council on Judicial Complaints, which shall be authorized to refer the complaint to the district attorney of the county in which the alleged violation occurred.

D. No person shall disclose the contents of a complaint, his or her intention to file a complaint, the fact that a complaint has been filed or his or her knowledge of another person's intention to file a complaint; provided, the respondent may disclose the entire contents of a complaint and any related materials at any time in the proceedings. If the respondent so discloses, any provisions of this act prohibiting disclosure of information shall be waived and the complaint and all records and materials related thereto shall be open for public inspection.

E. No complaint alleging any violation of the provisions of Sections 24 through 31 of this act by a candidate or by any person in connection with a campaign for county office may be filed with, received by or initiated by the Commission during the period beginning on the first day of the period for filing declarations of candidacy for the office and ending on the day after certification of the results of the election at which the office is filled.

F. A copy of any complaint filed with the Commission that meets the requirements of subsection C of this section, and a general statement of the applicable laws with respect to the complaint, shall be sent by certified mail to the person named in the complaint. Such person shall have twenty (20) days from the day of receipt of the copy of the complaint to file a written response to the complaint. Upon written request by the person, the chairman of the Commission may extend the time for response an additional twenty (20) days.

G. A complaint may be withdrawn by the complainant at any time during the proceedings outlined in this section with the consent of the Commission and the respondent.

H. Upon the filing of a complaint, the Commission shall determine if the complaint may be resolved by action on the part of either party or by a conciliation agreement pursuant to the provisions of subsection Q of this section or if the complaint should be dismissed. If not, the Commission may cause an investigation to be conducted and may order a hearing to be held pursuant to the provisions of Article II of the Administrative Procedures Act. The respondent shall have the right to be present during any of the proceedings except the final deliberations and the right to appear with counsel and shall be notified that the investigation and hearing may result in a referral of the complaint to the appropriate authority for prosecution if a criminal penalty is provided in this act for the violation cited in the complaint. The complainant shall not be present except at such times as he may be required to provide testimony.

I. The rules of evidence shall apply to any hearings held pursuant to the provisions of this section.

J. All proceedings held pursuant to the provisions of this section shall be conducted in executive sessions. All records relating to any such complaint, review or investigation shall be confidential and not open for public inspection.

K. The Commission shall cause a record to be made of such proceedings and shall request a hearing officer to conduct the proceedings and advise the Commission as necessary. The hearing officer shall be an attorney licensed to practice law in this state. The Court Administrator shall designate hearing officers. The Executive Director or designee shall present the complaint and any evidence supporting the complaint. The Commission shall determine:

1. The order of the proceedings;

2. The order in which the Executive Director or designee and the respondent and his or her counsel are to put on testimony and evidence, cross-examine witnesses and present arguments; and

3. Such other matters as may be necessary to ensure orderly proceedings. The Commission may request the assistance of the hearing officer in making such determinations.

L. At the conclusion of the hearing, the Commission shall conduct final deliberations and shall determine if the complaint may be resolved by a conciliation agreement. No other person shall be present at such deliberations; provided, after such determination, the Commission may request the assistance of the Executive Director.

M. At the conclusion of final deliberations, the Commission shall set forth its determination in writing with findings of fact and conclusions of law. Such written decision with findings of fact and conclusions of law must contain one of the following orders:

1. A dismissal of the complaint;

2. An order reflecting the terms of a conciliation agreement with the respondent pursuant to the provisions of subsection Q of this section; or

3. For complaints alleging a violation of this act for which a criminal penalty is provided, an order referring the complaint and all material gathered by the Commission concerning the alleged violation to the appropriate authority for prosecution or action; provided, such referral shall only be made upon the affirmative vote of a majority of the members serving that there is probable cause to believe that the respondent committed a knowing and willful violation of the sections of the Political Subdivisions Ethics Act cited in the complaint. If the Commission refers the complaint for prosecution or action, the records of any proceedings held pursuant to the complaint shall be transcribed.

As used in this section, "appropriate authority" means the district attorney of the county in which the violation occurred. If uncertainty exists as to the county in which the violation occurred, the Commission may prosecute in, or refer complaints to the district attorney of, any county in which the evidence indicates the violation might have been committed.

N. If the appropriate authority declines to prosecute or take action, the investigation and order and all materials related thereto shall remain confidential. If the appropriate authority decides to prosecute or take action, the respondent

shall be entitled to a copy of any report prepared by the Commission concerning the complaint and only that material presented at trial shall become open for public inspection. If the Commission dismisses the complaint, all materials related to the investigation shall be destroyed by the Commission six (6) months after the date of dismissal unless such materials are required for prosecution of filing a frivolous complaint pursuant to the provisions of Section 22 of this act.

O. In making a determination pursuant to the provisions of subsection M of this section, the Commission may exercise such discretion as it deems necessary to provide fairness to the accused and to maintain confidence in the public officials and employees who are subject to the provisions of this act.

P. Any person disclosing any material made confidential pursuant to the provisions of this section, upon conviction, shall be guilty of a misdemeanor and shall be punished by a fine not exceeding Ten Thousand Dollars ($10,000.00). If the Commission upon a vote of a majority of the members serving determines that confidential information has been disclosed, it shall forward any materials related to such disclosure, along with any information it deems necessary, to the appropriate district attorney.

Q. A conciliation agreement to resolve any complaint filed-may be entered into by the Commission and the respondent at any time during the proceedings provided for in this section. A conciliation agreement, unless violated, shall be a bar to any other action by the Commission or the district attorney. A conciliation agreement shall not be made public unless such disclosure is made part of the agreement. A conciliation agreement may include a requirement that the respondent pay a civil penalty of up to Two Thousand Five Hundred Dollars ($2,500.00).

Such penalties shall be deposited with the State Treasurer to the credit of the General Revenue Fund. If the Commission finds, or either party alleges, that a conciliation agreement has been violated, the Commission shall conduct a hearing under the procedures specified in this section to determine if the conciliation agreement has been violated and, if so, if the complaint should be referred to the appropriate authority for prosecution. A conciliation agreement may be amended by the Commission. **(51-307)**

Section 723.8. Frivolous Complaint.

It shall be unlawful to file a frivolous complaint with the Ethics Commission. A person shall be deemed to have filed a frivolous complaint if:

1. The person has submitted or has caused or conspired with the complainant to submit substantially the same complaint to the Commission within the preceding six (6) months;

2. To the best of his or her knowledge, the complaint is not accurate or is not well grounded in fact; or

3. The complaint is made for an improper purpose, including harassment of any person named in the complaint.

If the Commission upon a vote of a majority of the members serving determines that a frivolous complaint has been filed, it shall forward the complaint, along with any information it deems necessary, to the appropriate district attorney. Any person convicted of filing a frivolous complaint shall be guilty of a misdemeanor and shall be punished by a fine not exceeding Ten Thousand Dollars ($10,000.00). **(51-308)**

Section 723.9. Financial Disclosure by Public Officials.

The Legislature hereby declares those persons elected and employed to administer the government on behalf of the people of the State of Oklahoma have a responsibility to make certain financial disclosures to demonstrate that fair and equitable treatment is given all governmental decisions. **(51-318)**

Section 723.10. Financial Disclosure Required.

[See note following § 723.12 on opinion excluding boards of education]

A. Any person elected to an office for which a declaration of candidacy is required to be filed with the county election board as provided in Section 5-103 of Title 26 of the Oklahoma Statutes, except any person required to file financial disclosure pursuant to the provisions of any federal law, shall file a Financial Disclosure Statement with the Ethics Commission on or before the fortieth day after each General Election.

B. Any candidate for an office for which a declaration of candidacy is required to be filed with the county election board as provided in Section 5-103 of Title 26 of the Oklahoma Statutes shall file a Financial Disclosure Statement with the Commission on or before the tenth day following the last day for filing the declaration of candidacy for the office.

C. A member of a board or commission as created by the Oklahoma Constitution or by statute except members of advisory committees to the legislative, executive, or judicial branches of state government, Foster Care Review Board members appointed pursuant to Section 1116.2 of Title 10 of the Oklahoma Statutes, and board members of guaranty associations created pursuant to state statute, shall file a Financial Disclosure Statement with the Commission upon initial appointment and not later than April 30 of each even-numbered year thereafter. The provisions of this subsection shall not be construed to require precinct inspectors, judges, clerks and counters to file Financial Disclosure Statements.

D. No individual shall be required to file more than one Financial Disclosure Statement in any calendar year.

E. Every person failing to file a Financial Disclosure Statement on or before the dates specified in this section shall be assessed by the Commission a late filing fee of up to One Hundred Dollars $100.00) for each day the statement remains unfiled; provided, the total amount of such fees assessed per report shall not exceed One Thousand Dollars ($1,000.00). Failure to file a Financial Disclosure Statement shall be deemed to be a separate offense for each day that the Statement remains unfiled after it becomes due. Fees collected pursuant to the provisions of this subsection shall be deposited with the State Treasurer to the credit of the General Revenue Fund. Such fees shall not be paid from campaign funds.

F. Every board and commission created by the Oklahoma Constitution or by state statute, except those exempted in subsection E of this section, shall designate an employee or member who shall be responsible for filing a list of employees and/or members of governing boards or commissions required under this section to file Financial Disclosure Statements on or before January 1 of each year. Names of individuals no longer required to file shall also be reported along with the effective date of the termination of their services. **(51-319)**

Section 723.11. Extension of Filing Time.

A. Except for those persons required to file a Financial Disclosure Statement pursuant to the provisions of subsection B of Section 33 of this act, any person who is required to file a Financial Disclosure Statement may effect one thirty-day extension of the time for filing such a statement by filing with the Ethics Commission, not more than ten (10) days before or ten (10) days after the date the Financial Disclosure Statement is due, a declaration of intention to defer the filing of the Financial Disclosure Statement.

B. All Financial Disclosure Statements required to be filed pursuant to the provisions of this act shall be certified.

C. The Commission shall retain the Financial Disclosure Statements according to the provisions of the Records Management Act, Section 201 et seq. of Title 67 of the Oklahoma Statutes; provided, all statements shall be retained by the Commission for at least two (2) years. **(51-320)**

Section 723.12. Financial Disclosure Statement.

A. The Financial Disclosure Statement shall contain the following information for the preceding two (2) calendar years or for the period since the most recent Financial Disclosure Statement was filed:

1. Name or title of the office;

2. Name of the person filing the Financial Disclosure Statement;

3. Business address of the person;

4. Residential address of the person;

5. Occupation or business of the person prior to the election or employment for which the Financial Disclosure Statement is being filed;

6. Prior positions held as a public official, regardless of whether a salary or reimbursement was received for such service;

7. Names, business addresses, residential addresses and occupations of the spouse of the person and all living adult children if such spouse or children are doing business with the county;

8. A list of categories or industries from which income is received without reference to amounts or frequency of receipt of income. Provided, categories or industries from which less than One Thousand Dollars ($1,000.00) annually is received may be omitted. Such persons shall list special areas of practice in general subjective terms;

9. A list of categories or industries in which the person has had stock during the period for which the information on the Financial Disclosure Statement is required. Provided, categories or industries in which the person has stock valued at less than One Thousand Dollars ($1,000.00) at the time of filing the Financial Disclosure Statement may be omitted;

10. The name of any entity from which an honorarium or honoraria, valued at more than Two Hundred Dollars ($200.00) over and above actual expenses paid to the person, was received and the value of any such honorarium; and

11. The name of any registered lobbyist with whom the person has engaged in business from which income of over One Thousand Dollars ($1,000.00) was received.

B. The form for the Financial Disclosure Statement shall be as follows:

FINANCIAL DISCLOSURE STATEMENT

_____

NAME: (Last, First, Middle) Birth Date

_____

Business Address (Street or Box, City, State, Zip)

_____

Residential Address (Street or Box, City, State, Zip)

CHECK YOUR FILING STATUS: (mark only one box)
( ) An elected official.
( ) A candidate running in an election:

month _____ year _____

( ) A member of a board or commission.

Position you hold or have been appointed to:
(fill in all applicable blanks)

Position Title: _____

County or agency of the office:
_____

Position number: _____

Term begins: _____ ends: _____

Appointment date: _____

Employment date: _____

1. OCCUPATION OR BUSINESS: (current or prior to this election or appointment)

_____

2. PRIOR POSITIONS HELD AS A PUBLIC OFFICIAL: (List most recent positions first)

_____

3. SPOUSE and ADULT CHILDREN: Give the following information for your spouse and all living adult children (over 18 years of age) if your spouse or children are doing business with the county.

_____

NAME RESIDENTIAL ADDRESS BUSINESS ADDRESS OCCUPATION

Check here ( ) if continued on attached sheet

_____

4. INCOME: List categories or industries from which you receive $1,000 or more annually:

Check here ( ) if continued on attached sheet

_____

5. STOCK: List categories or industries in which you have owned stock which is valued at $1,000 or more during the period for which this Financial Disclosure Statement is required:

CATEGORY OR INDUSTRY
CATEGORY OR INDUSTRY
CATEGORY OR INDUSTRY

Check here ( ) if continued on attached sheet

_____

6. HONORARIA: List names of any entities from which you received an honorarium or honoraria valued at more than $200 over and above actual expenses and list the value of such honorarium or honoraria:

DATE
ENTITY
VALUE

Check here ( ) if continued on attached sheet

_____

7. LOBBYISTS: List any registered lobbyists with whom you have engaged in business from which income of over $1,000 was received:

LOBBYIST'S NAME
LOBBYIST'S NAME

Check here ( ) if continued on attached sheet

_____

Report additional information on plain 8 ½ x 11 paper using format of each question. Attach pages to this report. Put your name and the date on all attachments.

_____

To the best of my knowledge and belief, the above is a true and correct compilation:

_____

SIGNATURE: (Person Filing Statement) Date **(51-321)**

School board candidates and already elected members are not required to file financial disclosure statements with the Ethics Commission. Ethics Commission Interpretation Nos. 88-007 and 89-005.

Section 723.13. Penalties for Failure to Disclose.

A. Any person who fails to file a Financial Disclosure Statement required in the Political Subdivisions Ethics Act, who knowingly gives false information in the Financial Disclosure Statement or who knowingly omits required information from the Financial Disclosure Statement shall be guilty of a misdemeanor. Each violation shall be a separate offense.

B. In addition to any penalty imposed pursuant to the provisions of subsection A of this section, the person shall not be permitted to perform the duties conferred upon him by law until the statement is properly filed. **(51-322)**

Section 723.14. Restrictions on Financial Interests.

No person who is a public official, director, officer or trustee of a governmental entity shall own any direct or indirect interest in any bond, obligation or security issued by or in the name of such governmental entity. **(51-323)**

Note: Campaign Finance and Disclosure laws have not been fully included in the School Laws of Oklahoma. They are found at Title 21 Oklahoma Statutes, Sections 187 through 187.2 and Title 51 Oklahoma Statutes, Section 309 through 317.

Section 724. Felony Conviction - School Board Members.

A. A person who has been convicted of a misdemeanor involving embezzlement or a felony under the laws of this state or of the United States or who has entered a plea of guilty or nolo contendere to such misdemeanor involving embezzlement or felony or who has been convicted of a crime in another state which would have been a misdemeanor involving embezzlement or a felony under the laws of this state or has entered a plea of guilty or nolo contendere to such crime shall not be eligible to be a candidate for or to be elected to any state, county, municipal, judicial or school office or any other elective office of any political subdivision of this state for a period of fifteen (15) years following completion of his sentence or during the pendency of an appeal of such conviction or plea.

B. The provisions of this section shall not be construed to preclude a person who has received a pardon from being eligible for or from holding public office. **(26-5-105a)**

Statute is constitutional and does not violate United States or Oklahoma constitution. *June 6, 1988 (AG Op. No. 88-48)*

In order for elected official to be permanently disqualified from public employment, he would have to be prosecuted criminally and convicted in Oklahoma state court. *November 24, 1986 (AG Op. No. 86-29)*

Statute disqualifies certain convicted criminals from being candidates for, or being elected to, public office after state or federal convictions, but does not prevent them from holding public employment. *November 24, 1986. (AG Op. No. 86-29)*

Section 725. Officer or Deputy Not to Hold Other Office.

A. Except as may be otherwise provided, no person holding an office under the laws of the state and no deputy of any officer so holding any office shall, during the person's term of office, hold any other office or be the deputy of any officer holding any office, under the laws of the state. The provisions of this section shall not apply to:

1. Notaries public;

2. Members of the State Textbook Committee;

3. County free fair board members;

4. Municipal and county law enforcement officers serving in positions as law enforcement officers of both such governmental entities upon such terms and conditions as are mutually approved by resolutions adopted by the board of county commissioners and governing body of the municipality employing such officers;

5. Any person holding a county or municipal office or position, or membership on any public trust authority, who is a member of a board or commission that relates to federal, state, county or municipal government and is created by the United States Government, the State of Oklahoma or a political subdivision of the state, except where the duties of the offices or positions conflict;

6. Any elected municipal officers and school board members who are appointed to a state board, commission, or similar entity if there is no compensation for such services other than reimbursement for necessary travel expenses pursuant to the provisions of the State Travel Reimbursement Act;

7. Any trustee of a public trust, who is appointed as a trustee of a different public trust or any trustee of the Tulsa County Public Facilities Authority who may also be employed by the Department of Transportation;

8. Law enforcement officers employed by municipal or county law enforcement departments or agencies, other than those law enforcement officers elected or appointed as sheriff, chief of police or some similar position in which they are the head of a county or municipal law enforcement agency, who are elected to local boards of education; provided, the provisions of this paragraph shall not prohibit any law enforcement officer employed by a municipality having a population of ten thousand (10,000) or fewer people from serving as a member of a local board of education;

9. Any member of the Oklahoma Highway Patrol Division of the Department of Public Safety who is elected to a local board of education;

10. Any District Supervisor, Assistant District Supervisor, Team Supervisor, Parole Officer 1 or Parole Officer 2 of the Department of Corrections who is elected or appointed to a city council;

11. Any trustee or director of a rural electric cooperative, or port authority who is appointed or elected to a state, county or municipal board, commission or similar entity;

12. County employees who are elected as members of town or city councils;

13. Municipal, county, state or tribal law enforcement or peace officers operating under cross-deputization agreements with an Indian tribe or branch of the federal government;

14. Municipal or county law enforcement or peace officers serving in positions as campus police officers or campus public safety officers pursuant to the provisions of the Oklahoma Campus Security Act, upon such terms and conditions as are mutually approved by resolution adopted by the governing body of the municipality or county and the governing board of the institution of higher education;

15. State law enforcement or peace officers serving in positions as campus police officers or campus public safety officers pursuant to the provisions of the Oklahoma Campus Security Act, upon such terms and conditions as are mutually approved by written agreement between the Commissioner of Public Safety and the governing board of the institution of higher education;

16. Municipal and county law enforcement officers serving in positions as part-time rangers under the Oklahoma Tourism and Recreation Department;

17. The Administrator of a Scenic Rivers Commission serving in the position of a park ranger under the Oklahoma Tourism and Recreation Department;

18. Members of the University Hospitals Authority;

19. Any person holding a state office or position who is a reserve force deputy sheriff or a reserve municipal police officer;

20. Any person holding a state office or position who serves as a special assistant district attorney without compensation;

21. Any elected or appointed member of a local school board who is a member of a municipal planning commission;

22. Any elected or appointed member of a local school board who is a member or an officer of a volunteer fire department;

23. Directors or officers of a rural water district and chiefs of municipal fire departments or rural fire districts who are appointed or elected to an unsalaried office in a state, county, municipal, school, or technology center school board, commission, or similar entity, except where the duties of the office would create a conflict of interest;

24. Any person who is a dispatcher or confinement officer at a municipal or county jail who is a noncompensated reserve municipal police officer or a reserve deputy sheriff;

25. Any person who is an assistant district attorney serving as a municipal judge or prosecutor;

26. Any park ranger under the Oklahoma Tourism and Recreation Department who is elected or appointed to a local board of education or to a municipal board, commission or similar entity;

27. Members of the Oklahoma State University Medical Center Authority or the Oklahoma State University Medical Trust;

28. Any member of the state Legislature or any state officer who serves on the board of trustees of the Oklahoma School for the Visual and Performing Arts; and

29. Members of the Council on Judicial Complaints.

The provisions of this section shall not prohibit any person holding an office under the laws of the state or any deputy of any officer so holding any office from serving upon the board of Oklahoma Futures or upon the board of directors of the Oklahoma Center for the Advancement of Science and Technology. The provisions of this section shall not prohibit a member of the board of directors of the Oklahoma Center for the Advancement of Science and Technology from serving upon the board of Oklahoma Futures.

B. Any salaries, emoluments or benefits that would otherwise be paid by the agency or political subdivision to a loaned employee or officer shall instead be paid to the regular employer of such employee. The loaned employee shall in turn be paid regular salary and benefits the same as if continuing regular employment with the permanent employer. **(51-6)**

Member of a municipal board of trustees may not serve on the board of adjustment because the positions may be in conflict. *Town of Wellston v. Wallace*, 2007 OK CIV APP 2, 152 P.3d 284

It does not constitute a violation of the prohibition against dual office holding for a person to hold a position as Secretary of Finance and Revenue on the Governor's Cabinet and to be appointed to fill the unexpired term of the position of State Treasure, as a cabinet Secretary does not meet the definition of an office. *August 30, 20005 (AG Op. No. 05-28)*

Employee of a county or of a city or town within the county may not serve on the excise board for that county. Employees of other entities supported by ad valorem taxes, such as employees of a school district may serve on the county excise board. However, all members of the county excise board are prohibited from using their positions to further their own interests. *April 5, 2001 (AG Op. No. 01-18)*

This section does not prohibit an assistant district attorney from serving as a justice for a tribal court. *July 23, 1999 (AG Op. No. 99-41)*

Pursuant to the statutory provision regarding dual-office holding, an individual is prohibited from serving as both a chief of a municipal volunteer fire department and as a member of a school's board of education. Both positions are "officers" for purposes of the dual-office holding statute. *June 30, 1997 (AG Op. No. 97-55)*

Because a member of a county planning commission is a public officer, 51 O.S. 1991, §6, restricts a school board member from simultaneously serving as a member of a county planning commission. May 22, 1992. (AG Inf. Op. No. 92-512)

Trustee of rural electric cooperative is not a public officer. Electric cooperatives are private corporations and not governmental entities. AG Op. No. 83-158 is withdrawn. *January 17, 1990 (AG Op. No. 89-72)*

Dual Office holding prohibitions are not violated where public official serves as presidential electors. *October 4, 1988 (AG Op. No. 88-68)*

Member of board of education cannot simultaneously serve on board of directors of a fire protection district. *October 26, 1983 (AG Op. No. 83-220)*

Person may serve as a secretary on staff of House of Representatives while holding office of member of a board of education. *August 31, 1983 (AG Op. No. 83-177)*

Not necessary for County Superintendent to resign in order to become candidate for Mayor, but if he is elected Mayor he cannot serve in both offices simultaneously. *April 13, 1983 (AG Op. No. 83-60)*

Member of board of education cannot simultaneously hold office of County Purchasing Agent. *March 28, 1983 (AG Op. No. 83-49)*

Member of board of education is disqualified from appointment to County Excise Board. *February 15, 1979 (AG Op. No. 79-8)*

Member of board of education may be employed as maintenance man of nonprofit rural water district or may serve as board member of rural electric co-op. *December 20, 1978 (AG Op. No. 78-206)*

Associate Director of Economic Development District Area Agency of Aging can serve on Vocational-Technical School Board. *December 28, 1978 (AG Op. No. 78-112)*

Member of volunteer fire department can serve as member of board of education. *July 15, 1977 (AG Op. No. 77-188)*

Superintendent, principal or teacher of school district comprising part of an area vocational-technical school district can legally serve as member of board of education of area district. *July 5, 1977 (AG Op. No. 77-154)*

Section 726. Officers of United States or Other States - Ineligibility to Hold Office Under Laws of This State.

No member of Congress from this State, or person holding any office of trust or profit under the laws of any other State, or of the United States, shall hold any office of trust or profit under the laws of this State.
(Art. 2, § 12, Okla. Const.)

Employee of a county or of a city or town within the county may not serve on the excise board for that county. Employees of other entities supported by ad valorem taxes, such as employees of a school district may serve on the county excise board. However, all members of the county excise board are prohibited from using their positions to further their own interests. *April 5, 2001 (AG Op. No. 01-18)*

Article II, §12 does not prohibit an individual from being a school board member and a member of a governing body of an Indian tribe unless the tribal position is created pursuant to federal law. *August 1, 2000 (AG Op. No. 00-39)*

Member of U.S. Postal Service can serve on board of education. *AG Op. April 29, 1976*

Section 727. Officers - Vacancies in Office - Acts Causing Vacancy.

Every office shall become vacant on the happening of any one of the following events before the expiration of the term of such office:

First. The death of the incumbent or his resignation.

Second. His removal from office or failure to qualify as required by law.

Third. Whenever any final judgment shall be obtained against him for a breach of his official bond.

Fourth. Ceasing to be a resident of the State, county, township, city or town, or of any district thereof, in which the duties of his office are to be exercised or for which he may have been elected or appointed.

Fifth. Conviction in a state or federal court of competent jurisdiction of any felony or any offense involving a violation of his official oath; provided, that no conviction, as a cause of vacation of office, shall be deemed complete so long as an appeal may be pending, or until final judgment is rendered thereon.

Sixth. Upon entering of a plea of guilty or nolo contendere in a state or federal court of competent jurisdiction for any felony or any offense involving a violation of his official oath.

The fact by reason whereof the authority authorized to fill such vacancy arises shall be determined by the authority authorized to fill such vacancy. **(51-8)**

A member of an independent school district board of education who enters a guilty plea to a felony charge is automatically disqualified from holding that office upon the entering of the guilty plea. Under the provisions of 51 O.S. 2001, 8 it is the appointing authority who determines whether the facts giving rise to a vacancy in office have occurred. The independent school board, the authority authorized to fill such vacancy if it exists, must determine whether a vacancy has occurred. *December 19, 2007 (AG Op. No. 07-43)*

A school board has a duty to make a factual determination whether an office is vacant because a board member has a final conviction of a felony or an offense involving his or her official oath. If a board refuses to make such a determination, it can be forced to do so by a writ of mandamus. However, the board cannot declare vacant an ineligible incumbent member's position without affording the member an opportunity for due process which includes, at a minimum, notice and an opportunity to be heard. *July 16, 2001 (AG Op. No. 01-33)*

The appointing authority determines whether facts give rise to a vacancy in office. When there is a dispute over the facts giving rise to the vacancy, the appointing authority must afford the office holder some type of minimal due process. *March 27, 1997 (AG Op. No. 96-98)*

Resignation of member of board of education of independent district should be submitted to and accepted by the Board. *AG Op. May 5, 1961*

Failure of member of board of education to attend meetings might constitute abandonment of office with resulting vacancy to be determined by board of education. *AG Op. February 1, 1958*

Fact of resignation of person from office of member of board of education of independent school district and that vacancy exists in office is determinable by remaining members of board and the board, as then constituted, is authorized to fill vacancy. *Bowen v. Brock*, 244 P.2d 546 (Okla. 1952)

Board member whose resignation has been accepted cannot continue to serve as board member. *AG Op. May 17, 1951*

Position of member of board of education of independent school district does not become vacant by reason of change of residence, unless board of education is satisfied there has been an actual change of permanent residence, and declares vacancy, but board cannot act arbitrarily in deciding the question. *AG Op. February 11, 1941*

Resignation may be withdrawn before its acceptance. *AG Op. September 13, 1940*

Change of residence is a question of fact, depending upon facts and circumstances of each particular case. *AG Op. January 5, 1939*

Temporary absence from school district with no intention of abandoning residence in district does not make board member ineligible to continue in office. *AG Op. January 5, 1939*

Section 728. Workers' Compensation Insurance.

Note: School districts are subject to the Workers Compensation Act which is found in Title 85 of the Oklahoma Statutes. Because of its length, the Act is not included in the School Laws of Oklahoma. The following provision of the Act is included because it identifies the methods of insuring for workers compensation authorized for school districts.

C. Boards of education, their instrumentalities and public trusts of which they are beneficiaries shall insure against their liability for workers' compensation with the State Insurance Fund or, through any combination of the following, may:

1. Self-insure and make any appropriation of funds to cover their risk;

2. Secure reinsurance or excess insurance over and above a self-insured retention in any manner authorized by subsection B of Section 168 of Title 51 of the Oklahoma Statutes; or

3. Insure with other insurance carriers licensed in the State of Oklahoma. **85-2b(A)(3)**

Pursuant to workers' compensation scheme and Governmental Tort Claims Act, political subdivision could be liable for retaliatory discharge of employee who pursued compensation claim. *Presson v. Kay County Board of Commissioners*, 806 P.2d 88 (Okla. App. 1991)

Whether a volunteer utilized by Human Rights Commission is covered by Workers Compensation Act is determined by whether the Commission retains a right of control and supervision of work performed by volunteer." *March 6, 1986 (AG Op. No. 85-135)*

If self-insured for workers' compensation coverage, board of education must utilize the exclusive funding methods mandated in 85 O.S. Supp. 1898 §2b (A) (3) for such purposes. *May 21, 1990 (AG Op. No. 90-9)*

A board of education that is self-insured for workers' compensation must utilize the exclusive funding methods mandated in 85 O.S., §2b(A)(3) for such purposes. A board of education may not utilize the procedures of 85 O.S., §42 to fund its workers' compensation coverage in lieu of appropriating funds because Section 42 is not a funding statute. Section 42 is intended to be used solely as a mechanism for collecting judgments. *May 21, 1990 (AG Op. No. 90-9)*

Section 729. Unemployment Compensation.

In lieu of contributions required of employers under the Employment Security Act of 1980, as provided by this act, the State of Oklahoma and its instrumentalities shall pay each quarter beginning after March 31, 1978, including any political subdivision and its instrumentalities after December 31, 1977, one percent (1%) of taxable wages, as defined in this act, paid to employees covered by this act. Such payments made in lieu of contributions shall be paid on or before the last day of the month following the calendar quarter to be reported and shall be paid into the Unemployment Compensation Fund. **(40-3-702)**

Note: This section is part of the financing Benefits to Employees of the State Act, Title 40 O.S. §3-701, et seq.

Section 730. Injuries Sustained by School Personnel in Performance of Duties - Continued Payment of Contract Salary.

A. Any public school teacher, school administrator or other school personnel employee, who is unable to continue his or her contract of employment as a result of injury sustained in the reasonable performance of his or her duties from:

1. Assault by a pupil, relative of a pupil or person of the pupil's household, or

2. Injury sustained as a result of quelling or attempting to quell or stop a fight, disorder or any disturbance related to a school function or activity, shall be paid his or her full contract salary for the remainder of that school year or contract year or period, whichever is applicable, or for such period of time thereof as he or she is prevented from teaching or working as a result of the injuries sustained or job loss caused by such injuries during said school year or contract year or period for which he or she had been employed and during which he or she was injured not to exceed in any event the term of the contract; and directing that such school district paying the balance of the contract payments, may file suit against such person or persons or their guardian or guardians for reimbursement of payments so made.

B. Employees of the public schools of this state who suffer job-related injuries, other than those enumerated in subsection A of this section, which qualify for temporary total disability benefits under the Workers' Compensation Act, Section 1 et seq. of Title 85 of the Oklahoma Statutes, may utilize accumulated sick leave or personal leave on a prorated basis as follows:

At the option of the employee, temporary total disability benefits shall be supplemented by any sick leave or personal leave, or fractional use thereof available to the injured employee, to the extent that the injured employee shall receive full wages during the employee's temporary absence. The sum of all temporary total disability payments and sick leave or personal leave shall in no case combine to exceed one hundred percent (100%) of the employee's net pay as it existed prior to injury.

C. Nothing in the provisions of this section shall affect the right of the employee or the employer pursuant to the Workers' Compensation Act. **(70-35f)**

Section 731. Medical Reports.

A medical report from the treating physician must be furnished to the local school district board to substantiate that said injuries: (1) were disabling, (2) prevented the continuance of such person's employment and (3) the period of said disability. If a dispute arises on said disability or activity, then either party aggrieved may file suit in district court. **(70-35g)**

Section 732. Appointment of Relative Unlawful.

A. It shall be unlawful for any executive, legislative, ministerial or judicial officer to appoint or vote for the appointment of any person related to him by affinity or consanguinity within the third degree, to any clerkship, office, position, employment or duty in any department of the State, district, county, city or municipal government of which such executive, legislative, ministerial or judicial officer is a member, when the salary, wages, pay or compensation of such appointee is to be paid out of the public funds or fees of such office. Provided, however, that for the purposes of this chapter, a divorce of husband and wife shall terminate all relationship by affinity that existed by reason of the marriage, regardless of whether the marriage has resulted in issue who are still living.

B. The provisions of this section shall not apply to any situation covered by Section 5-113 of Title 70 of the Oklahoma Statutes. **(21-481)**

Note: See Section 61 herein on employment of relative of member of board of education.

21 O.S., §481 is not violated by voting for routine or automatic promotions, raises and blanket raises. There are no criminal penalties for not voting for the lateral transfer or promotion within the prohibited degree of affinity or consanguinity. *July 11, 1990 (AG Op. No. 90-25)*

Third degree of affinity does not include unadopted step-child of a brother. *March 7, 1984 (AG Op. No. 84-8)*

Appointment of board member's wife to Staff Development Committee violates nepotism statutes. *January 27, 1982 (AG Op. No. 81-288)*

The Attorney General holds that father and mother are first degree; grandfather and grandmother, brothers and sisters, are second degree; uncles and aunts, third degree; and first cousins, and great uncles and aunts, fourth degree. *October 20, 1980 (AG Op. No. 80-222)*

A legally adopted son or daughter is within purview of nepotism law. *AG Op. October 8, 1975*

Fact that member of architectural firm is uncle of member of board of education does not prevent board from employing firm as architects for school buildings. *AG Op. September 10, 1964*

First cousins not related within third degree. *AG Op. February 5, 1963*

It is lawful for school district to contract for transportation of pupils by uncle of member of board of education. *AG Op. August 12, 1960*

Man married to sister of wife of member of board of education can be employed to drive school bus for district. *AG Op. October 15, 1959*

Lawful for board of education to employ person as janitor whose wife is aunt of wife of member of board of education. *AG Op. October 9, 1959*

Prohibited appointment unlawful even though appointee receives no compensation for his services. *AG Op. February 13, 1959*

Woman whose husband is nephew of wife of member of board of education can be employed as cook for school district. *AG Op. January 20, 1959*

Wife of member of board of education cannot be appointed school district treasurer if she is paid compensation for her services. *AG Op. January 12, 1959*

Insurance may be purchased from agent who is uncle of board member's wife. *AG Op. August 16, 1957*

Husband of sister of board member's wife can accept contract for electrical wiring of building that board has let to contractor for turn-key job. *AG Op. December 28, 1956*

Not unlawful to employ wife of board member's wife's brother. *AG Op. February 12, 1952*

Two members of the Board of Education of a dependent district cannot employ a relative of the third member of the Board of Education as a teacher; regardless of whether the third member votes for such employment. *AG Op. August 26, 1950*

Person married to sister of another person is related to other person within third degree. *AG Op. March 31, 1950*

Sister of wife of member of Board of Education of independent district cannot be appointed treasurer of such district. *AG Op. December 7, 1949*

Relative of board member cannot be employed as cook in School Lunch Program. *AG Op. April 21, 1948*

Man whose wife is sister of wife of board member is not within statutory inhibition. *AG Op. June 5, 1939*

Wife of nephew of board member's wife can be employed as teacher. *AG Op. March 23, 1939*

First cousins are not within prohibition of statute. *AG Op. November 19, 1930*

Teacher's contract not invalidated by subsequent election of uncle to board of education. *AG Op. July 1, 1930*

Employment of son or half-brother of member of school board as bus driver is prohibited. *AG Op. June 15, 1929*

Section 733. Unlawful to Pay Salary.

It shall be unlawful for any such executive, legislative, ministerial or judicial officer mentioned in the preceding section, to draw or authorize the drawing of any warrant or authority for the payment out of any public fund, of the salary, wages, pay or compensation of any such ineligible person, and it shall be unlawful for any executive, legislative, ministerial or judicial officer to pay out of any public funds in his custody or under his control the salary, wages, pay or compensation of any such ineligible person. **(21-482)**

The nepotism statute is violated even though a school board member does not vote for the appointment or employment of his relative who is within the prohibited degree. *AG Op. July 15, 1941*

Unlawful for member of board to vote to employ or pay relative of another member of same board. *State v. Raedeker*, 13 P.2d 148 (1932)

Where member of board attends board meeting and record does not affirmatively show that he voted against payment of compensation to ineligible employee presumption is that he voted for such payment. *State v. Raedeker*, 13 P.2d 148 (1932)

Section 733.1. Certain Provisions Inapplicable.

The provisions of Sections 481 through 484 of Title 21 of the Oklahoma Statutes shall not apply to any situation covered by Sections 5-113 and 5-113.1 of Title 70 of the Oklahoma Statutes. **(21-484.1)**

Section 733.2. Nepotism: Penalty for Violation.

Any executive, legislative, ministerial or judicial officer who shall violate any provision of this Article, shall be deemed guilty of a misdemeanor involving official misconduct, and shall be punished by a fine of not less than One Hundred or more than One Thousand Dollars ($1,000.00), and shall forfeit his office. **(21-485)**

Section 733.3. Nepotism: Removal From Office.

Every person guilty of violating the provisions of this article, shall, independently of, or in addition to any criminal prosecution that may be instituted, be removed from office according to the mode of trial and removal prescribed in the Constitution and laws of this State. **(21-486)**

Section 734. Leave of Absence to Public Officers and Employees in National Guard.

All officers and employees of the state or a political subdivision thereof who are members of the Oklahoma National Guard or any reserve component of any branch of the United States military, shall, when ordered by proper authority to active or inactive service, be entitled to a leave of absence from such civil employment for the period of such active service, without loss of status or efficiency rating. During the first twenty (20) calendar days for employees of political subdivisions or the first twenty (20) regular scheduled work days for state employees of such leave of absence in any federal fiscal year, the officers or employees shall receive their full regular pay from the employing state agency or political subdivision. During the remainder of such leave of absence in any federal fiscal year, the employing state agency or political subdivision may elect to pay them an amount equal to the difference between the officers' or employees' full regular pay from the employing state agency or political subdivision and their Oklahoma National Guard or United States military reserve component pay, except that state officers and employees shall receive the difference between their full regular pay and their Oklahoma National Guard or United States military reserve

component pay when they are ordered by proper authority to active or inactive service retroactive to the date that the state officer or employee reported to active service on or after September 11, 2001, during the period that Operation Enduring Freedom is in effect. The durational limit of protected military service as provided for in this section shall not be less than that provided by federal law. If it is necessary in the public interest to provide for the performance of the duties of their positions during such absence, the authority having power to fill a vacancy in the positions may appoint substitutes, to be known as acting incumbents, who shall qualify as required for the regular incumbents and shall receive the same pay as fixed by law, if any, or otherwise such pay as may be fixed by proper authority.

The Office of Personnel Management shall promulgate rules as necessary to implement the provisions of this section that relate to state employees. (**44-209)**

A political subdivision is required to pay a salaried officer or employee who is a member of the Oklahoma National Guard or any reserve component of any branch of the United States military and who is called to military service an amount equal to the employee's full regular pay during the first thirty-day calendar period. Full regular pay is determined to be the normal compensation an officer or employee would have received during that thirty-day calendar period. This amount may be calculated by converting a salaried officer or employee's annual compensation to a daily rate and multiplying that rate by thirty. (*AG Op. No. 2010-3*)

A political subdivision may not require written notice from an officer or employee called to military service for the officer or employee to be able to return to covered employment, as such a requirement would be an additional prerequisite not established by federal law, and federal law requires notice to be either written or verbal. (*AG Op. No. 2010-3*)

Employees of state and its subdivisions are entitled to paid leave of absence for National Guard Duty and Federal Armed Services active duty for total of twenty days in twelve month period such period to run concurrent with the federal fiscal year. *February 3, 1989 (AG Op. No. 88-103)*

Weekend drills are not "active service". *May 4, 1983 (AG Op. No. 83-32)*

The term "leave of absence" is period exclusive of vacation time allowed employee. *AG Op. January 31, 1972*

The statement "when ordered by proper authority" includes service pursuant to reserve obligation or to voluntary contracted obligation. *AG Op. January 31, 1972*

Leave with pay applies to active duty or service for training purposes. *AG Op. August 1, 1967*

Veteran agricultural instructor who was paid from Federal funds cannot be paid for time of military service from school district funds. *AG Op. February 20, 1952*

Contract of teacher who replaces person entering military service is automatically terminated when serviceman returns and applies for re-employment. *AG Op. September 28, 1951*

Section 735. Public Officers and Employees Leave of Absence When in Military Service.

All officers and employees of the state or a political subdivision thereof who are members, either officers or enlisted, of the National Guard, or any branch of the United States Military or its reserve components, shall, when ordered by the proper authority to active or inactive duty or service, be entitled to a leave of absence from such civilian employment for the period of such service without loss of status or seniority. During the first thirty (30) calendar days for employees of political subdivisions or the first thirty (30) regularly scheduled work days for state employees of such leave of absence in any federal fiscal year, the officers or employees shall receive their full regular pay from the employing state agency or political subdivision. During the remainder of such leave of absence in any federal fiscal year, the employing state agency or political subdivision may elect to pay the officer or employee an amount equal to the difference between their full regular pay from the employing state agency or political subdivision and their military pay, except that state officers and employees shall receive the difference between their full regular pay and their Reserve Components pay when they are ordered by proper authority to active or inactive service retroactive to the date that the officer or employee reported to active service on or after September 11, 2001, during the period that Operation Enduring Freedom is in effect. The durational limit of protected military service as provided for in this section shall not be less than that provided by federal law. If it is necessary in the public interest to provide for the performance of the duties of their positions during such absence, the authority having power to fill a vacancy in the positions may appoint substitutes, to be known as acting incumbents, who shall qualify as required for the regular incumbents and shall receive the same pay, including benefits and pay adjustments as fixed by law, if any, or otherwise such pay, including benefits and pay adjustments, as may be fixed by proper authority.

The Office of Personnel Management shall promulgate rules as necessary to implement the provisions of this section that relate to state employees. **(72-48)**

Employees of state and its subdivisions are entitled to paid leave of absence for National Guard Duty and Federal Armed Services active duty for total of twenty days in twelve month period such period to run concurrent with the federal fiscal year. *February 3, 1989 (AG Op. No. 88-103)*

The term "leave of absence" is period exclusive of vacation time allowed employee. *AG Op. January 31, 1972*

The statement "when ordered by proper authority" includes service pursuant to reserve obligation or to voluntary contracted obligation. *AG Op. January 31, 1972*

Leave with pay applies to active duty or service for training purposes. *AG Op. August 1, 1967*

Veteran agricultural instructor who was paid from Federal funds cannot be paid for time of military service from school district funds. *AG Op. February 20, 1952*

Contract of teacher who replaces person entering military service is automatically terminated when serviceman returns and applies for re-employment. *AG Op. September 28, 1951*

Section 736. Witness Fees.

A. Any employee of the state or any political subdivision thereof who is subpoenaed as a witness to testify on any matter pertaining to their employment, including any investigation conducted by the employee as a duty of said employment for which he is fully compensated, shall not be entitled to receive the witness fee and reimbursement for mileage provided for in Section 81 of this title, except as provided for in subsection B of this section. However, if the employee is required by the subpoena to testify in a county other than his county of residence or employment, he shall be entitled to receive reimbursement pursuant to the State Travel Reimbursement Act in accordance with Section 82 of this title. No such witness shall receive such reimbursement in more than one case covering the same period of time or the same travel. Each such witness shall be required to make oath that the amounts claimed for reimbursement have not been claimed or received in any other case or from any other source.

B. It is the intent of the Legislature that court appearances should not adversely affect the education of students enrolled in school districts in this state. To the extent possible, court appearances of public school district employees should be scheduled to minimize the disruption of class time. If a school district employee is subpoenaed to appear as a witness in a civil court proceeding, except in a proceeding in which the school district or the state is a party, the school district shall be entitled to a witness fee equal to the amount of the substitute teacher cost, not to exceed One Hundred Dollars ($100.00) per day. **(28-84.1)**

Section 737. Payroll Deductions for Credit Unions.

A. 1. Upon the request of a state employee, a state agency, board, or commission shall make voluntary payroll deductions for the employee to any credit union, bank, or savings association having an office in this state.

2. If the governing body of any county, municipality, or school district provides for voluntary payroll deductions to a credit union serving the employees of the county, municipality, or school district, it shall provide voluntary payroll deductions to any credit union, bank, or savings association having an office in this state which has a minimum participation of twenty percent (20%) of the employees of the county, municipality, or school district.

B. Upon the request of a state employee and pursuant to procedures established by the Administrator of the Office of Personnel Management, a state agency, board, or commission shall make payroll deductions for:

1. The payment of any insurance premiums due a private insurance organization with a minimum participation of five hundred (500) state employees for life, accident, and health insurance which is supplemental to that provided for by the state;

2. The payment of any insurance premiums due a private insurance organization or service company which is regulated by the State Insurance Commissioner and with a minimum participation of five hundred (500) state employees for legal services;

3. Premiums or payments for retirement plans with a minimum participation of five hundred (500) state employees for retirement plans which are supplemental to that provided for by the state;

4. Salary adjustment agreements included in a flexible benefits plan as authorized by the State Employees Flexible Benefits Act;

5. Membership dues utilized for benefits, goods or services provided by the Oklahoma Public Employees Association to the organization's membership or any other statewide association limited to state employee membership with a minimum membership of two thousand (2,000) dues-paying members. For purposes of this paragraph, state agencies shall accept online or electronically submitted forms from the Oklahoma Public Employees Association and other state employee associations. The Office of Personnel Management shall develop and implement a verification process for online or electronically submitted forms which may include the use of electronic signature technology or other process as determined appropriate;

6. Contributions to its foundation organized pursuant to 26 U.S.C., Section 501(c)(3) in the Oklahoma Public Employees Association or any other statewide association limited to state employee membership with a minimum membership of two thousand (2,000) dues-paying members;

7. Payments to a college savings account administered under the Oklahoma College Savings Plan Act pursuant to Section 3970.1 et seq. of Title 70 of the Oklahoma Statutes;

8. Subscriptions to the Oklahoma Today magazine published by the State of Oklahoma through the Oklahoma Tourism and Recreation Department; and

9. The payment of any insurance premiums due a private insurance organization, which is regulated by the State Insurance Commission, for an Oklahoma Long-Term Care Partnership Program approved policy pursuant to the Oklahoma Long-Term Care Partnership Act.

C. The administrative costs of processing payroll deductions or administering salary adjustment agreements for insurance premiums as provided for in subsection B of this section shall be a charge of two percent (2%) of the gross annual premiums for insurance plans. The administrative costs of processing payroll deductions or administering salary adjustment agreements for payments for retirement plans as provided for in subsection B of this section shall be one percent (1%) of the gross annual payments for retirement plans. These charges shall be collected monthly from the private insurance or retirement plan organization by the Office of Personnel Management and shall be deposited to the credit of the General Revenue Fund. Provided that these costs shall not be collected from state employees or state agencies unless otherwise directed in Section 1 et seq. of this title.

D. Any statewide association granted a payroll deduction prior to January 1, 2008, shall be exempt from the minimum state employee membership requirement.

E. Approval of a payroll deduction or salary adjustment agreement for any insurance organization, line of coverage or policy shall not be construed as an assumption of liability, for the term of policy or the performance of the insurance organization, by this state, or any of its agencies, boards, commissions, institutions or any officer or employee thereof. Contracts for such insurance shall be in all respects subject to the insurance laws of this state, and shall be enforceable solely pursuant to such laws.

F. The Oklahoma Employment Security Commission is authorized to deduct from the wages or salary of its employees the employees' contribution to the Oklahoma Employment Security Commission Retirement Plan.

G. Payroll deductions shall be made for premium payments for group insurance for retired members or beneficiaries of any state-supported retirement system upon proper authorization given by the member or beneficiary to the board from which the member or beneficiary is currently receiving retirement benefits.

H. Upon request of instructional personnel employed at either the Oklahoma School for the Blind or the Oklahoma School for the Deaf and pursuant to procedures established by the Administrator of the Office of Personnel Management, the Commission for Rehabilitation Services shall make payroll deductions for membership dues in any statewide educational employee organization or association.

I. Upon the request of a state employee of the Department of Corrections, the Department shall make voluntary payroll deductions for the employee to the Correctional Peace Officer Foundation. **(62-7.10)**

Section 738. Garnishment of Money Due from School Districts - Exceptions.

That it shall be lawful for any creditor of any person, firm or corporation in this state, to whom the state or any county, city, town, school board, board of education or any municipal subdivision of the state is indebted, to cause a garnishment to issue to, and to garnishee sums, wages or other sums due such creditor of the state or such municipality to the same extend and in like manner as if such creditor of the state or such municipality was a creditor of a private individual, firm or corporation; provided, however, that such officer or employee of said state, county or municipality shall be entitled to the exemptions as to amount of such wages, salary, fund or compensation due thereto, as is exempt from attachment, execution or garnishment in favor of officers or employees of private individuals or corporations. **(12-1192)**

Section 739. Summons - Service When School District is Garnished.

Where * * * school boards or board of education are garnisheed, service herein shall be made by summons, as in other cases, upon the clerk of such boards. **(12-1193)**

Section 740. School District as Garnishee - Judgments.

No judgment shall be rendered against the state, or any county, city, town, board of education, school board or any municipal subdivision of the state named as garnishee, but judgment may be rendered against any person served as provided under 12 O.S. 1961, § 1193, who shall fail, neglect or refuse to answer garnishment summons. **(12-1194)**

> The portion of H.B. 1804 requiring public employers to verify employment authorization status is constitutional. *Thomas v. Henry*, 2011 OK 53.

Section 740.1. Disclosure of Information to Prospective Employer Permitted.

A. An employer may disclose information about a current or former employee's job performance to a prospective employer of the current or former employee upon request of the prospective employer and with consent of the current or former employee, or upon request of the current or former employee. A state agency, as defined in Section 840-2.5 of Title 74 of the Oklahoma Statutes, may disclose information regarding a current or former employee's job performance to another state agency which is a prospective employer of the current or former employee without the employee's consent. The employer is presumed to be acting in good faith, unless lack of good faith is shown by a preponderance of the evidence. The current or former employer shall be immune from civil liability for the disclosure or any consequences of such disclosure unless the presumption of good faith is rebutted upon a showing that the information disclosed by the current or former employer was false and the employer providing the information had knowledge of its falsity or acted with malice or reckless disregard for the truth.

B. The provisions of this section shall apply to any employee, agent, or other representative of the current or former employer, including a state agency, who is authorized to provide and who provides information in accordance with the provisions of this section.

C. Failure to comply with any provision of this section shall not give rise to any liability or causes of action which did not exist prior to July 1, 1995. This section shall only apply to causes of action accruing on and after July 1, 1995. **(40-61)**

> Employee could not require or force her previous employer to provide job performance information or verification of employment to prospective employers. *Nichols v. Pray, Walker, Jackman, Williamson, and Marler,* 2006 OK CIV APP 115, 114 P.3d 907

> An employer may disclose a current or former employee's job performance information and/or evaluations to prospective employees when such disclosure is done with the consent or at the request of the current or former employee, even though the Open Records Act allows such records to be kept confidential. *December 10, 1997 (AG Op. No. 97-48)*

Section 740.2. Notice of Request for Consumer Report.

A. Prior to requesting a consumer report for employment purposes, the requestor or user of the consumer report shall provide written notice to the person who is the subject of the consumer report. The notice shall inform the consumer that a consumer report will be used and the notice shall contain a box that the consumer may check to receive a copy of the consumer report. If the consumer requests a copy of the report, the user of the consumer report shall request that a copy be provided to the consumer when the user of the consumer report requests its copy from the credit reporting agency. The report sent to the consumer shall be provided at no charge to the consumer. As used in this section, "consumer report" shall have the same meaning as that term is defined in the federal Fair Credit Reporting Act, 15 U.S.C., Sections 1681 et seq.

B. No person shall be held liable for any violation of this section if such person shows by a preponderance of the evidence that, at the time of the alleged violation, such person maintained reasonable procedures to assure compliance with this section. **(24-148)**

The requestor of a consumer report for employment purposes must provide notice to the person who is the subject of the report. The definition of "consumer report" is the same as it is defined in the Fair Credit Reporting Act. The definition does not include the exceptions to the definition of "consumer report" as adopted by the Fair and Accurate Credit Transactions Act of 2003. *May 16, 2006 (AG Op. No. 06-18)*

Section 740.3. Physical Therapists.

A. 1. Any person licensed under this act as a physical therapist or physical therapist assistant shall treat human ailments by physical therapy only under the referral of a person licensed as a physician or surgeon with unlimited license and Doctors of Dentistry, Chiropractic and Podiatry, with those referrals being limited to their respective areas of training and practice; provided, however, a physical therapist may provide services within the scope of physical therapy practice without a physician referral to children who receive physical therapy services pursuant to the Individuals with Disabilities Education Improvement Act of 2004, as may be amended, and the Rehabilitation Act of 1973, Section 504, as may be amended. Provided further, a plan of care developed by a person authorized to provide services within the scope of the Physical Therapy Practice Act shall be deemed to be a prescription for purposes of providing services pursuant to the provisions of the Individuals with Disabilities Education Improvement Act of 2004, as may be amended, and Section 504 of the Rehabilitation Act of 1973, as may be amended.

2. Nothing in this act shall prevent a physical therapist from performing screening and educational procedures within the scope of physical therapy practice without a physician referral.

3. Nothing in this act shall be construed as authorization for a physical therapist or physical therapist assistant to practice any branch of the healing art.

4. Any person violating the provisions of this act shall be guilty of a misdemeanor as per Section 887.16 of this title.

B. 1. The provisions of this act are not intended to limit the activities of persons legitimately engaged in the nontherapeutic administration of baths, massage, and normal exercise.

2. This act shall not prohibit students who are enrolled in schools of physical therapy approved by the State Board of Medical Licensure and Supervision from performing such work as is incidental to their course of study; nor shall it prevent any student in any recognized school of the healing art in carrying out prescribed courses of study; provided such school is a recognized institution by the statutes of Oklahoma, and its practitioners are duly licensed as prescribed by law.

3. Nothing in this act shall apply to any person employed by an agency, bureau, or division of the federal government while in the discharge of official duties, however, if such individual engages in the practice of physical therapy outside the line of official duty, the individual must be licensed as herein provided. **(59-887.17)**

Physical therapists not authorized to enforce physicians' lien under 42 O.S. 46. *PTS Healthcare, Inc. v. Mid-Century Insurance, 2007 OK CIV APP 100, 171 P.3d 924*

Section 740.4. Speech-Language Pathologists and Audiology Licensing Act.

A. Except as otherwise provided by this section, no person shall practice speech-language pathology or audiology unless such person is licensed pursuant to the Speech-Language Pathology and Audiology Licensing Act.

B. The Speech-Language Pathology and Audiology Licensing Act shall not be construed to prevent:

1. A person licensed under any other law of this state from engaging in the profession or occupation for which such person is licensed, provided such person does not represent himself or herself to be a speech-language pathologist or audiologist;

2. An employee of the federal government, state, county or municipal government, or an agency or political subdivision thereof, from engaging in such employee's duties of employment;

3. The hearing testing or any other act conducted by licensed physicians within the scope of their licensed profession or by persons conducting hearing tests or other acts under the direct supervision of the physician;

4. The activities and services of a hearing-aid dealer or fitter so long as the activities and services of such dealer or fitter are limited to the selection, adaptation, distribution or sale of hearing aids, and the testing, instruction, and counseling pertaining thereto, as long as such hearing-aid dealer or fitter does not represent himself or herself to be an audiologist;

5. A teacher of the deaf and hard of hearing, certified by the Oklahoma State Department of Education, or certified nationally by the Council on Education of the Deaf, from engaging in the profession for which such teacher is trained. The services of a teacher of the deaf and hard-of-hearing shall be directed solely to those persons having or suspected of having a hearing disorder;

6. Any person not a resident of this state and who has not established offices in this state, from engaging in the practice of speech-language pathology or audiology in this state for a period that, in the aggregate, does not exceed seven (7) days in any calendar year, if such a person's education and experience is the substantial equivalent to that of a licensed speech-language pathologist or audiologist as described in Section 1605 of this title; and

7. The activities of hearing screening programs which are conducted by employees or trained volunteers who are providing these services under the auspices of public or private charitable agencies.

C. Notwithstanding any other provision of this section, a person licensed in this state to perform speech pathology or audiology services is hereby designated to be a practitioner of the healing art for purposes of making a referral for speech pathology or audiology services pursuant to the provisions of the Individuals with Disabilities Education Act, Public Law 105-17, as amended, and Section 504 of the Rehabilitation Act of 1973. **(59-1604)**

Section 740.5. Breaks for Breast-Feeding.

A. An employer may provide reasonable unpaid break time each day to an employee who needs to breast-feed or express breast milk for her child to maintain milk supply and comfort. The break time, if possible, shall run concurrently with any break time, paid or unpaid, already provided to the employee. An employer is not required to provide break time under this section if to do so would create an undue hardship on the operations of the employer.

B. An employer may make a reasonable effort to provide a private, secure, and sanitary room or other location in close proximity to the work area, other than a toilet stall, where an employee can express her milk or breast-feed her child.

C. The Department of Health shall issue periodic reports on breast-feeding rates, complaints received, and benefits reported by both working breast-feeding mothers and employers.

D. As used in this section:

1. “Employer” means a person engaged in business who has one or more employees, including the state and any political subdivision of the state;

2. "Employee" means any person engaged in service to an employer in the business of the employer;

3. "Reasonable efforts" means any effort that would not impose an undue hardship on the operation of the employer's business; and

4. "Undue hardship" means any action that requires significant difficulty or expense when considered in relation to factors such as the size of the business, its financial resources, and the nature and structure of its operation. **(40-435)**

Section 740.6. Legal Resident – Status Verification System.

As used in Sections 6 and 7 of this act:

1. "Status Verification System" means an electronic system operated by the federal government, through which an authorized official of an agency of the State of Oklahoma or of a political subdivision therein may make an inquiry, by exercise of authority delegated pursuant to Section 1373 of Title 8 of the United States Code, to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by Section 7 of this act. The Status Verification System shall be deemed to include:

a. the electronic verification of work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, P.L. 104-208, Division C, Section 403(a); 8 U.S.C., Section 1324a, and operated by the United States Department of Homeland Security, known as the Basic Pilot Program,

b. any equivalent federal program designated by the United States Department of Homeland Security or any other federal agency authorized to verify the work eligibility status of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), D.L. 99-603,

c. any other independent, third-party system with an equal or higher degree of reliability as the programs, systems, or processes described in this paragraph, or

d. the Social Security Number Verification Service, or such similar online verification process implemented by the United States Social Security Administration;

2. "Public employer" means every department, agency, or instrumentality of the state or a political subdivision of the state;

3. "Subcontractor" means a subcontractor, contract employee, staffing agency, or any contractor regardless of its tier; and

4. "Unauthorized alien" means an alien as defined in Section 1324a(h)(3) of Title 8 of the United States Code. **(25-1312)**

Section 740.7. Legal Resident – Status Verification System – Timeline.

A. Every public employer shall register with and utilize a Status Verification System as described in subparagraphs a or b of paragraph 1 of Section 6 of this act to verify the federal employment authorization status of all new employees.

B. 1. After July 1, 2008, no public employer shall enter into a contract for the physical performance of services within this state unless the contractor registers and participates in the Status Verification System to verify the work eligibility status of all new employees.

2. After July 1, 2008, no contractor or subcontractor who enters into a contract with a public employer shall enter into such a contract or subcontract in connection with the physical performance of services within this state unless the contractor or subcontractor registers and participates in the Status Verification System to verify information of all new employees.

3. The provisions of this subsection shall not apply to any contracts entered into prior to the effective date of this section even though such contracts may involve the physical performance of services within this state after July 1, 2008.

C. 1. It shall be a discriminatory practice for an employing entity to discharge an employee working in Oklahoma who is a United States citizen or permanent resident alien while retaining an employee who the employing entity knows, or reasonably should have known, is an unauthorized alien hired after July 1, 2008, and who is working in Oklahoma in a job category that requires equal skill, effort, and responsibility, and which is performed under similar working conditions, as defined by 29 U.S.C., Section 206(d)(1), as the job category held by the discharged employee.

2. An employing entity which, on the date of the discharge in question, was currently enrolled in and used a Status Verification System to verify the employment eligibility of its employees in Oklahoma hired after July 1, 2008, shall be exempt from liability, investigation, or suit arising from any action under this section.

3. No cause of action for a violation of this subsection shall arise anywhere in Oklahoma law but from the provisions of this subsection. **(25-1313)**

Section 741. Oath of Public Officials and Employees.

Every officer and employee of the State of Oklahoma, or of a county, school district, municipality, public agency, public authority, or public district thereof, who, on or after July 1, 1953, is appointed or elected to office, or who after said date is employed, for a continuous period of thirty (30) days or more, in order to qualify and enter upon the duties of his office or employment and/or receive compensation, if any, therefor, shall first take and subscribe to the loyalty oath or affirmation required by this Act and file the same as hereinafter set forth. Provided, that a public employee who is employed or whose employment is extended on a fiscal year basis and who has duly taken and filed the oath required by this Act in order to qualify for and enter upon, or continue in, the duties of his employment, need not again take and file such an oath so long as his said employment, or re-employment is continuous or consecutive. **(51-36.1)**

Section 742. Cumulative Oath.

The oath or affirmation required by this Act, same being cumulative to the oath of office required by 51 O.S. 1961, §2, shall be as follows:

I do solemnly swear (or affirm) that I will support the Constitution and the laws of the United States of America and the Constitution and the laws of the State of Oklahoma, and that I will faithfully discharge, according to the best of my ability, the duties of my office or employment during such time as I am _____
(Here put name of office, or, if an employee, insert "An Employee of _____"
followed by the complete designation of the employing officer, agency, authority, commission, department or institution.)

_____
Affiant

Subscribed and sworn to before me this _____ day of _____, 19_____.
_____ Notary Public, or other officer authorized to administer oaths or affirmations. **(51-36.2A)**

Legislator was subject to only the Oklahoma constitutional oath of office for events transpiring prior to enactment of 2004 legislation that specifically made statutory loyalty oath cumulative to constitutional oath. *Stipe v. State ex rel. Bd. of Trustees of Oklahoma Public Retirement System, 2008 OK 52*

As there is no duty to report criminal wrongdoing that results in the loss of public funds or to seek recovery of lost funds, a state officer's or employee's decision not to report criminal wrongdoing or seek recovery of funds the state agency is deprived of does not violate either the statutory or constitutional oath of office. A specific state officer or employee who has a duty to report criminal wrongdoing or to seek recovery of funds and does not do so may be found to have violated the oath of office. Whether the oath is violated is a question of fact dependent on the individual circumstances. *(AG Op. No. 09-7)*

Section 743. Officers Authorized to Administer Oaths.

The following officers are authorized to administer oaths:

1. Justices of the Supreme court and Judges of the Court of Criminal Appeals.

2. The Clerk of the Supreme Court and the Court of Criminal Appeals.

3. Judges and clerks of the district, superior and county courts, and other courts of record within their respective districts or counties.

4. County clerks and their deputies, and county commissioners, within their respective counties.

5. Justices of the peace and notaries public within their respective counties.

6. Sheriffs and their deputies in cases where they are authorized by law to select commissioners or appraisers, or to impanel juries for the view or appraisement of property, or are directed as an official duty to have property appraised, or to take the answers of garnishees, or are authorized to take delivery bonds.

7. Such other officers as are authorized by law in special cases.

8. Clerks of boards of education, city auditor, city and town clerks.

9. Court clerks, deputy clerks, or violations bureau clerks as shall be appointed by judges of courts not of record. **(51-21)**

Section 744. Notary Public Authorized to Administer Oath.

As used in the Uniform Law on Notarial Acts:

1. "Notarial acts" means any act that a notary public of this state is authorized to perform, and includes ... administering an oath or affirmation . . . **(49-112)**

Section 745. Filing of Oath.

A. The oath or affirmation required by Section 36.2A of this title and taken and subscribed to by:

1. Every state officer shall be filed with the Secretary of State;

2. Every state employee shall be filed with the personnel officer of the state entity employing the state employee;

3. All other officers shall be filed with the office of the county clerk of the county of official residence of the officer;

4. All other employees shall be filed with the office of the county clerk of the county in which the entity employing the employee is located; and

5. Every notary public shall be filed with the office of the court clerk of the county of official residence of the notary, or if a nonresident, the county of employment of the notary.

B. No fee shall be charged for the filings or for the administration of the oaths or affirmation.

C. Blank oath forms will be furnished, without charge, by the Secretary of State to such officers and employees upon request.

D. The provisions of paragraphs 3, 4 and 5 of subsection A of this section shall not apply to municipal officers and employees or school district officers and employees. All oaths or affirmations of municipal officers or employees or school district officers or employees shall be filed in the office of the municipal clerk of the municipality or in the office of the school clerk of the school district for which the officer or employee serves or by which the officer or employee is employed. **(51-36.3)**

Section 746. Salary Withheld Until Oath is Taken.

No compensation or reimbursement for expenses earned or incurred on or after July 1, 1953, shall be paid to any public officer or employee by any public agency unless and until he has taken and filed the oath or affirmation required by this Act. Said public officer or employee, if his name is to appear on a public payroll claim, and who is not the certifying officer thereof, shall immediately, after he takes and files his oath or affirmation, notify, in writing, said certifying officer that he has taken and filed his said oath or affirmation and the date of such filing. It shall be the duty of the person certifying to said payroll to certify thereon that he has taken and filed said oath or affirmation and that every other officer or employee whose name appears on the payroll has notified him in writing that he has taken and filed the same. **(51-36.4)**

Section 747. Penalty for Falsifying Oath.

Every public officer or employee who, in taking and subscribing to the oath or affirmation required by this act, states as true any material matter which he knows to be false, shall be guilty of the felony of perjury, and upon conviction be punished by imprisonment in the state prison for not less than one (1) year nor more than fourteen (14) years, and in addition thereto, the person shall forfeit any public office or employment held by the person. **(51-36.5)**

Section 748. Penalty and Forfeit of Public Office.

Every public officer or employee having taken and subscribed to the oath or affirmation required by this act and having entered upon the duties of his office or employment, who, while holding his office or while being so employed, advocates by the medium of teaching, or justifies, directly or indirectly, or becomes a member of or affiliated with the Communist Party or the Cominform, or with any party or organization, political or otherwise, known by him to advocate by the medium of teaching, or justify, directly or indirectly, revolution, sedition, treason or a program of sabotage, or the overthrow of the government of the United States or of the State of Oklahoma or a change in the form of government thereof by force, violence, or other unlawful means, shall be guilty of a felony and, upon conviction, be punished by imprisonment in the state prison for not less than one (1) year nor more than fourteen (14) years; and in addition thereto, the person shall forfeit his or her office or employment. **(51-36.6)**

Section 749. School District Employer - Employee Relations.

It is the purpose of this act to strengthen methods of administering employer-employee relations through the establishment of an orderly process of communications between school employees and the school district. The district courts are vested with jurisdiction to prevent and restrain violations of this act and shall have jurisdiction in all other cases arising under this act to grant relief to the employer or recognized employee organization for violations of this act using procedures set forth in Sections 1381 through 1397 of Title 12 of the Oklahoma Statutes. **(70-509.1)**

Sick leave bank plan for teachers can be negotiated. *May 18, 1983 (AG Op. No. 83-33)*

A school district engaging in collective bargaining may not grant greater, or lesser, salary and/or benefits to employees who choose not to be represented by authorized collective bargaining agent. *December 29, 1987. (AG Op. No. 87-85)*

A collective bargaining agent is required to represent fairly and impartially all members of an appropriate bargaining unit, without regard to whether they are members of the labor organization, in the processing of grievances arising under a collective bargaining agreement. *December 29, 1987. (AG Op. No. 87-85)*

Section 750. Negotiations Representative of Professional Educators - Bargaining Representatives.

A. The board of education shall recognize an employee organization designated by an election of the employees in an appropriate bargaining unit as the exclusive representative of all the employees in such unit. The

members of an employee organization shall be employees as defined in paragraphs 1, 2 and 3 of this subsection and Section 1-116 of this title. The recognition of such employee organization shall be made by the board no later than fourteen (14) days after the election. Any person who desires not to be represented by any organization may so state in writing to his or her board of education. Appropriate bargaining units are defined as follows; however, such definition shall not be construed, of itself, as requiring that bargaining units engage in bargaining or act to disengage from bargaining:

1. Employees who are employed and certified as principals and assistant principals and who have responsibilities for the supervision of classroom teachers shall constitute an appropriate unit;

2. All other employees who are required by the position in which employed to be licensed or certified as teachers or entry year teachers as those terms are defined in Section 1-116 of this title and who do not hold supervisory authority with respect to other teachers in the district shall constitute an appropriate unit; and

3. All employees who are not required by their job description to be a principal, licensed or certified teacher, superintendent or other certified or noncertified administrator shall constitute a separate bargaining unit. Provided that, employees with access to confidential, labor relations information of the school district, or managerial employees whose responsibilities include making employment recommendations to the superintendent and for which their position does not require a certificate, shall be excluded from this or other bargaining units. Also excluded is any employee position agreed to be excluded from the bargaining unit by the employee organization and the school district.

Provided, if employees categorized according to paragraphs 2 and 3 of this subsection were organized for bargaining as a single unit as of April 14, 1986, or are at any time employed in a district having fewer than seventy-five employees in the two categories taken together, the employees may, for such time as a majority of the employees in each category indicate by secret ballot vote they share a single community of interest, constitute a single appropriate unit. Further provided, any final judgment of the Supreme Court denying such community of interest in any school district shall have the effect of rendering inappropriate all units, in whatever school districts they exist, which include employees of both categories.

B. 1. Within seven (7) business days of receiving a sealed packet containing an employee petition filed by or on behalf of thirty-five percent (35%) or more of the employees in a unit, such petition calling for an election to determine which, if any, employee organization represents the employees in a bargaining unit, the board shall arrange for verification that there are a sufficient number of correct names to constitute at least thirty-five percent (35%) of the employees in the unit. Such arrangements shall include the transmitting of the sealed packet and a list of employees eligible to be included in the bargaining unit to the individual designated pursuant to the provisions of paragraph 2 of this subsection.

2. The petition calling for the secret ballot election shall contain only the names of employees of the bargaining unit who have signed and dated the petition. Within thirty (30) days of receipt of the sealed packet by the district court judge in and for the county in which the school district has its main office, the sealed packet shall be opened and the petition shall be verified by an individual designated by the district judge of such court for the county in which the school district has its main office. Upon verification of the number of signatures on the petition, the district court judge shall notify in writing the district board of education and any employee organization that has requested notice of the verification. Under no circumstances shall the individual so designated reveal the names of employees who signed or did not sign the petition. If an employee has signed more than one petition, the name of the employee shall be removed from each petition.

3. The period of time for signing of a recognition petition shall commence upon receipt of written notification by the local school board from an organization indicating that it intends to circulate a petition and shall cease thirty (30) days thereafter. Provided, if an organization recognized as representative of a unit for bargaining is being challenged for discontinuation of representation as provided in paragraph 7 of subsection C of this section or is being challenged by another organization seeking recognition, the period for signing shall commence on the first day of February and end on the last day of that same February.

C. 1. Not less than forty-five (45) days nor more than sixty (60) days after receipt of notification that the petition has been verified as sufficient, a secret ballot election shall be held to determine which, if any, employee organization shall represent the unit. No election shall be held for a unit within which a valid election was held in the preceding two (2) years.

On or after March 2, 1995, the board shall recognize within ten (10) days an organization which has obtained signed authorization from a majority of the employees eligible to be included in the unit but has not been recognized. No election shall be held for such unit within two (2) years of recognition. An appropriate election ballot shall be printed for this election, which contains the names of all employee organizations having presented a petition verified as signed by at least thirty-five percent (35%) of the employees eligible to be in the unit to represent or currently recognized as representing the unit; provided, no such organization shall be shown on the ballot unless the organization pays to the board a filing fee of Two Hundred Fifty Dollars ($250.00). The ballot shall also provide an option whereby any employee of the unit may indicate a preference that the unit not be represented by any organization. Every organization that receives at least fifteen percent (15%) of the vote in the election shall be reimbursed the Two Hundred Fifty Dollars ($250.00) by the board. The board shall use any remaining filing fee money to help offset the cost of the validation process of the petition, if any, as well as any election costs incurred.

2. When none of the choices on the ballot receives a majority of the votes, a runoff election shall be conducted on the fourteenth day following the first election between the two choices which received the largest number of votes in the preceding election.

3. The employee organization or organizations and the school board shall, by agreement, determine the method by which each election shall be conducted. All costs incurred in an election shall be shared equally by all parties involved.

If no agreement can be reached by thirty (30) days prior to the election, the board of education shall notify the county election board of the county in which the board is located of such fact, and the following method for conducting the secret ballot election shall be followed and conducted by the county election board:

a. At the time of such notice, the board of education shall provide to the county election board:

(1) a list of all the polling places for the election, such list to include every middle school or junior high school and the central administration office in the district;

(2) a list of names of all the persons eligible to vote in the election, such list to be in alphabetical order and duplicated in such number that there shall be one for each polling place, plus an additional five copies;

(3) the names of each organization entitled to have its name appear on the ballot; and

(4) the date of the election which shall not be a special election date specified by subsection B of Section 3-101 of Title 26 of the Oklahoma Statutes.

b. Ballots for the election shall be printed by the county election board in the same manner as for other elections conducted by the county election board, insofar as is possible. The names of organizations shall be listed on the ballot in the order in which said names are furnished to the county election board by the board of education. The option specifying that no organization shall represent the employee bargaining unit shall be listed last on the ballot, in such language as may be specified by the board.

c. The secretary of the county election board shall appoint an inspector, judge and clerk for each polling place. The inspector, judge and clerk shall be selected from among the regular precinct officials in the county.

d. Polling places shall be open from 7:00 a.m. to 7:00 p.m. on the day of the election. Any eligible person who appears to vote no later than 7:00 p.m. shall be entitled to vote.

e. Eligible voters may vote after signing their signatures beside their names on the list of names of all the persons eligible to vote in the election. The voter shall place his or her ballot in the ballot box in the presence of the inspector.

f. Each organization entitled to have its name appear on the ballot shall be permitted to appoint one challenger at each polling place. Each such challenger shall be properly identified as such, and shall be limited to inquiring of a prospective voter, said prospective voter's name, address, job classification and work site. The challenger may challenge the right of any prospective voter to vote by so informing the judge. Upon being so challenged, the

prospective voter may vote if, after being informed by the judge of such a challenge, the voter signs his or her signature beside his or her name on the list of names of all the persons eligible to vote in the election. If same occurs, the judge shall write the words "Challenged by _____" beside the voter's signature.

g. The county election board shall certify in writing the results of the election to the board of education on the day following the election and on the same day shall mail a copy of the certification to all employee organizations that have requested copies of the certification.

h. Costs of the election shall be paid to the county election board by the board of education. The costs shall include the regular salaries of the inspector, judge, and clerk, in addition to all other necessary and reasonable costs. Such costs shall include compensation for members of the county election board, including the secretary.

i. Anyone guilty of voting more than one time in the election will be guilty of a misdemeanor and subject to a fine of Two Hundred Dollars ($200.00) or thirty (30) days in the county jail.

4. No employee shall use regularly scheduled duty time for campaign purposes.

5. A list of the employees eligible to vote in the election including their names, addresses, phone numbers, job classification and work site shall be provided not less than fourteen (14) days before the election to each organization listed on the official ballot.

6. Any board or organization challenging the results of any election held pursuant to the provisions of this section shall post with the district court a bond of One Thousand Dollars ($1,000.00) which shall be forfeited if the court finds that the challenge is in bad faith.

7. In any February more than two (2) years after recognition of an organization pursuant to the provisions of this section and upon the receipt of a petition calling for discontinuation of representation signed by thirty-five percent (35%) of the employees eligible to be included in the unit, a board shall call an election to determine whether the members of a unit wish to discontinue being represented for bargaining. If a majority of the votes cast are votes to discontinue representation, efforts to gain recognition by any organization shall be prohibited for a period of two (2) years commencing with the expiration of the contract then in force. The ballots used in such election shall, without reference to any organization by name, offer the single choice of continued representation or discontinuation of representation. **(70-509.2)**

Teachers' petition to board of education to disband association did not comport with Negotiations Act which requires that the petition call for discontinuation of representation, where dissolution of association would not necessarily constitute discontinuation of representation by some other bargaining agent. *Washington Assoc. of Classroom Teachers v. ISD No. I-05*, 862 P.2d 83 (Okla. App. 1993)

An organization must receive a majority of votes in order to be recognized by the local board of education. *June 6, 1990* (*AG Inf. Op. No. 90-544)*

An employee organization which is currently recognized as representing the bargaining unit shall have its name placed on the election ballot without being required as a precondition, to submit a petition containing the names of thirty-five percent (35%) of bargaining unit members. *March 30, 1987 (AG Op. No. 87-24)*

Local School Board has an affirmative obligation to participate in the settlement of unresolved disputes between competing bargaining organizations. *Maule v. ISD No. 9*, 714 P.2d 198 (Okla. 1985)

Nonprofessional educator organizations may designate bargaining representatives or negotiators who may or may not be employees of the district. *October 27, 1983 (AG Op. No. 83-92)*

Recognized organization may designate persons not employed by district to act as negotiators, consultants or members of team involved in negotiations. *June 10, 1982 (AG Op. No. 82-171)*

School administrator can serve on committee representing classroom teachers in negotiations with local board of education, if he is not serving as representative of board of education. *February 19, 1980 (AG Op. No. 80-3)*

Organization petitioning election may keep petitions for reasonable time prior to submitting petitions to board of education for purpose of verifying petitions. *December 27, 1978 (AG Op. No. 78-231)*

30 days for signing petition are calendar days and not days of pupil attendance. *December 27, 1978 (AG Op. No. 78-231)*

Local board of education cannot conduct election to determine organization to represent educators for negotiations. *November 14, 1975*

Designation of professional organization during school year does not automatically terminate after such year. *January 28, 1975 (AG Op. No. 74-265)*

Majority of professional educators of school district is necessary to elect individual bargaining representatives of professional organization. *January 28, 1975 (AG Op. No. 74-265)*

Election of individual bargaining representatives of professional organization must be conducted under auspices of the organization. *January 28, 1975 (AG Op. No. 74-265)*

Question of whether part-time employees are entitled to participate depends upon whether they have a sufficient "community of interest" with other employees, which is a question of fact. *February 8, 1974 (AG Op. No. 73-256)*

Only one professional organization may represent professional educators. *February 8, 1974 (AG Op. No. 73-256)*

Section 751. Dispute Resolution.

A. In the event of a bargaining unit determination or a bargaining election dispute, the following procedure shall apply:

1. In the event of a bargaining election dispute, within seven (7) calendar days of receipt of verification of number of signatures on the petition from the county election board or the receipt of election results from the county election board or other organization agreed upon by the parties to conduct the election, either party shall give notice in writing of a dispute and the facts on which the dispute is based to the other parties involved, and the State Superintendent of Public Instruction requesting appointment of a dispute resolution committee. In the event of a bargaining unit determination dispute either party shall give notice in writing of a dispute and the facts on which the dispute is based to the other parties involved, and the State Superintendent of Public Instruction requesting appointment of a dispute resolution committee. The status quo that existed between the parties prior to the incident giving rise to the dispute shall be maintained through the resolution of the dispute including district court proceedings unless the court orders otherwise upon proper application by a party; any election scheduled pursuant to a disputed petition shall be stayed pending resolution of the dispute including district court proceedings;

2. Within ten (10) days of receipt of notification that a dispute resolution committee is needed, the State Superintendent of Public Instruction shall form a dispute resolution committee consisting of three (3) members selected at random from the list of fact-finders maintained by the State Board of Education pursuant to Section 509.7 of Title 70 of the Oklahoma Statutes. The State Superintendent shall notify the members of the committee of their selection and set a date for the committee's first meeting to be held no later than seven (7) calendar days following selection of the committee. The committee shall elect a chair at its first meeting;

3. Within five (5) calendar days after the selection of the chair, the representatives of the parties involved in the dispute shall present to the members of the committee written comments on the issues related to the dispute. Each party shall furnish the other parties copies of documents presented to the committee. Within fifteen (15) calendar days of selection of the chair, the chair shall convene the committee for a meeting with the representatives of the parties. Within twenty (20) calendar days of selection of the chair, the committee shall present its findings and recommendations in writing to the board of education and other parties involved in the dispute;

4. If any party decides to reject the committee's recommendations the party must, within seven (7) days after receipt of the committee's written recommendation, request a meeting of the parties involved in the dispute. At the meeting the parties shall exchange written statements expressing their rationale for rejecting any recommendation and shall attempt to clarify differences;

5. At any time following issuance of the dispute resolution committee's findings and recommendations but prior to the initiation of judicial review, the committee shall provide necessary clarification to all parties at the request of any party. The committee shall provide written clarification within ten (10) calendar days of the request;

6. The local board shall file a copy of the written findings and recommendations, including any written clarifications, of the dispute resolution committee with the Office of the State Superintendent of Public Instruction. If the effort to resolve differences is successful, the parties shall forward a copy of their agreement to the State

Superintendent of Public Instruction. If the effort to resolve differences is unsuccessful, the local board of education shall notify the State Superintendent of Public Instruction in writing of the parties' inability to agree;

7. Within fifteen (15) calendar days of the date of notification of the parties' inability to agree any party may appeal for judicial review of the committee's findings and recommendations in the district court of the county in which the administrative office of the school district is located. The review shall be conducted by the court without a jury and shall be confined to the written record consisting of the dispute resolution committee's findings and recommendations, written statements furnished to the dispute resolution committee by the parties, and written statements exchanged among the parties as required in this section. In cases of alleged irregularities in procedures required in this section, the court may take testimony. The court, upon request or upon its own motion, shall hear oral argument and receive written briefs; and

8. The court shall accept the dispute resolution committee's findings and order the parties to comply with the dispute resolution committee's recommendations if the findings and recommendations are found to be valid and the proceedings are found to be free of prejudicial error to any party. Provided the court may enter an order overruling the committee's findings and recommendations, in whole or in part, and order its resolution of the dispute, if the court finds that the committee's findings, inferences, conclusions, or decisions are:

a. in violation of constitutional provisions,

b. in excess of the authority of the committee,

c. made upon unlawful procedure,

d. affected by other error of law,

e. clearly erroneous in view of the reliable, material, probative, and competent evidence, including matters properly noticed by the committee, upon examination and consideration of the entire record as submitted but without otherwise substituting its judgment as to the weight of the evidence for that of the committee on question of fact,

f. arbitrary or capricious, or

g. lacking findings of fact upon issues essential to the decision.

The court's final order shall be issued no later than sixty (60) days following the date the appeal is filed.

B. An aggrieved party without a motion for a new trial may secure a review of any final judgment of a district court under this section by appeal to the Oklahoma Supreme Court. The appeal shall be taken in the manner and time provided by law for appeal to the Supreme Court from the district court in civil actions. **(70-509.2a)**

Teachers' petition to board of education to disband association did not comport with Negotiations Act which requires that the petition call for discontinuation of representation, where dissolution of association would not necessarily constitute discontinuation of representation by some other bargaining agent. *Washington Assoc. of Classroom Teachers v. ISD No. I-05*, 862 P.2d 83 (Okla. App. 1993)

An organization must receive a majority of votes in order to be recognized by the local board of education. *June 6, 1990. (AG Inf. Op. No. 90-544)*

Section 752. School Board Representatives.

The local board shall choose representatives who shall bargain for the board, and the recognized organization shall choose representatives who shall bargain for the organization. The local board representatives shall be presently serving on the board or employed by said board and no other person shall represent the board. Provided nothing herein shall prohibit the employment of legal counsel for consultative purposes by local board or organization. **(70-509.3)**

A board of education may be represented in negotiations by current board members or an independent contractor employed by the board to represent it. *September 15, 1997 (AG Op. No. 97-70)*

Section 753. Negotiations.

Once an organization has been recognized, the board of education or its duly designated representative must meet with the duly designated representative of the organization and within sixty (60) days shall complete an agreement outlining negotiation procedures. The board of education and the representatives of the organization must negotiate in good faith on wages, hours, fringe benefits and other terms and conditions of employment. To negotiate in good faith shall mean both parties must be willing to consider proposals in an effort to find a mutually satisfactory basis for agreement and must be willing to discuss their respective contract proposals. If either party objects to the other's contract proposals, the objecting party must support its objections with rationale. Any allegation by either party that there has been a failure to comply with the provisions of this section shall be resolved through the dispute resolution procedure for resolving a unit determination dispute as set forth in subsection A of Section 509.2 [509.2.a] of this title. **(70-509.6)**

School board's authority to reprimand teacher may not be delegated to binding arbitration provision in collective bargaining agreement between school board and teachers' organization. *Raines v. ISD No. 6*, 796 P.2d 303 (Okla. 1990)

School board's statutory duty or discretion vested in board by statute may not be negotiated term in collective bargaining agreement. *Raines v. ISD No. 6*, 796 P.2d 303 (Okla. 1990)

Decisions statutorily vested in the exclusive authority and discretion of the school board including the decision to nonrenew the employment of a probationary teacher cannot be subject to binding arbitration pursuant to a collective bargaining agreement. *Mindemann v. ISD No. 6*, 771 P.2d 996 (Okla. 1989)

A local school district is required to use negotiation process to determine the distributions of the state aid increase provided in Ok. Sess. L. 1988, c.298, § 51, if either the classroom teacher or support personnel staff requests such negotiations whether or not the other group of employees is using the negotiations process. *March 7, 1989 (AG Op. No. 88-95)*

The duty to negotiate in good faith requires that boards of education and representatives of school employee organizations treat extra-duty compensation paid members of an appropriate collective bargaining unit, as a mandatory subject of bargaining. AG Opinion No. 81-126 is hereby withdrawn. *March 30, 1987 (AG Op. No. 87-21)*

School district employee cannot miss work to further negotiations without loss of pay. *June 20, 1979 (AG Op. No. 79-176)*

Section 754. Fact Finding Committee.

A procedure for resolving impasses will be developed by the board of education and the representatives of the organization. Said procedure shall include the actions set forth in this section and may include such other actions as are agreed to by both parties. Unless otherwise provided for by law, "days" means calendar days. Time limits set forth herein may be extended by mutual agreement of the parties.

A. If negotiations are not successfully concluded by the first day of school, impasse shall exist. At any earlier time, either party may declare impasse. Upon reaching of impasse, the items causing the impasse shall be referred to a three-member fact-finding committee. This committee shall consist of:

1. One member who shall be selected by the representatives of the organization within five (5) days after the reaching of impasse;

2. One member who shall be selected by the local board of education within five (5) days after the reaching of impasse; and

3. One member who shall serve as chairperson of the committee and shall be selected as follows:

a. The State Board of Education shall appoint as fact-finders not less than twenty nor more than thirty persons to be placed on the State Superintendent's list of fact-finders. The appointees must reside in Oklahoma, must be neutral and unbiased and must be knowledgeable in the fields of school operations, school finance, personnel management, dispute resolution and hearing procedures. The appointees shall not currently be elected public officers or employees of a board of education or officers or employees of an organization of education employees. No person who is related within the second degree by consanguinity or affinity to an elected public officer, to an employee of the

local board of education that is involved in the impasse, or to an employee of an organization of education employees shall be eligible to serve as a fact-finder.

b. An appointee shall serve until such appointee resigns or is removed by the State Board of Education from the State Superintendent's list of fact-finders. An appointee must be removed immediately if he or she becomes an elected public officer or employee of a board of education or an officer or employee of an organization of education employees.

c. Within ten (10) days of being notified that a fact-finder is needed, the State Superintendent of Public Instruction or designee shall provide the names of five potential fact-finders selected at random from the list of appointees who are available to serve as a member and the chairperson of the committee. The parties shall select the fact-finder from the five names within fifteen (15) days after receiving the list of fact-finders.

d. It shall be the responsibility of the State Board of Education to establish rules, regulations, training, hearing procedures, and payment schedules to implement the provisions of this paragraph.

B. Within five (5) days after the selection of the chairperson, the representatives who have been negotiating for the board and for the organization shall meet to exchange written language on each item at impasse. The exchanged documents shall also be furnished by each party to the chairperson and other members of the committee.

C. The chairperson shall convene the committee for fact finding. This committee shall meet with the representatives of both parties. Within twenty (20) days after the chairperson is selected, the committee shall present written recommendations to the local board and to the organization.

D. If either party decides it must reject one or more of the committee's recommendations, said party must, within seven (7) days after the committee has presented its recommendations, request a meeting of the representatives who have been negotiating for the board and for the organization. The parties shall meet within seven (7) days of the request, unless both parties deem it unnecessary. At such meeting, the representatives shall exchange written statements expressing each party's rationale for rejecting each recommendation found unacceptable and shall attempt to clarify any remaining differences. The representatives shall then resume good faith effort to resolve the remaining differences; provided, after fourteen (14) days after the exchange of the written statements, either party may discontinue such effort.

E. The local board shall file a copy of the fact-finding report with the office of the State Superintendent of Public Instruction. If the effort to resolve differences is successful, the parties shall draft a written agreement and present the agreement to both parties for ratification, and such agreement shall also be forwarded to the State Superintendent of Public Instruction. If the effort to resolve differences is unsuccessful, the local board of education shall forward to the State Superintendent of Public Instruction in writing its final disposition of the negotiations impasse process within thirty (30) days of the effective date of implementation. **(70-509.7)**

When an impasse is reached, both parties may agree to additional conditions to be imposed on the fact finding committee. Recommendations of the fact finding committee that are not affirmatively rejected by a party are deemed resolved and any subsequent negotiations are restricted to only the items still at impasse. *July 31, 1998 (AG Op. No. 98-14)*

Section 755. Agreed Procedure for Resolving Impasses Exclusive - Strikes Forbidden.

The procedure provided for herein for resolving impasses shall be the exclusive recourse of the organization. It shall be illegal for the organization to strike or threaten to strike as a means of resolving differences with the board of education. any member of an organization engaging in a strike shall be denied the full amount of his wages during the period of such violation. If the organization or its members engage in a strike, then the organization shall cease to be recognized as representative of the unit and the school district shall be relieved of the duty to negotiate with such organization or its representatives. **(70-509.8)**

Professional organization's strike relieves school district of its duty to recognize such organization, but only for the duration of the strike. *ISD No. 89 v. Okla. City Federation of Teachers*, 612 P.2d 719 (Okla. 1980)

Section 756. Discrimination for Exercise or Non-exercise of Rights Under Act Prohibited.

No employee shall be discriminated against by the board of education, superintendent or any other administrative officer of a district or by any employee organization, its officers or any member thereof because of his exercise or nonexercise of rights under this act. It shall be prohibited for an employee organization, employee or employer to impede, restrain or coerce an employer or employees in the exercise of the rights guaranteed in Sections 509.1 through 509.10 of this title. **(70-509.9)**

Section 757. Prior Agreements.

Nothing in this act shall be construed to annul or modify or to preclude the renewal or continuation of any lawful agreement heretofore entered into between any school district and any representative of its employees, except to the extent that such agreement is in conflict with the provisions of this act. **(70-509.10)**

Section 757.1. Professional Educator Associations Equal Access.

A. No school district, employee of a school district, or employee organization shall deny by any means, including a collective bargaining agreement, a statewide professional educators' association equal access to employees of the school district, to the same extent that access is granted to other educators' associations. For purposes of this section, access shall include, but is not limited to:

1. Setting up informational tables at in-service or other similar teacher meetings;

2. Speaking at in-service or other similar teacher meetings;

3. Distributing information in school mail boxes or through the school e-mail system;

4. Utilizing school district meeting rooms during nonworking hours;

5. Representing employees in employment matters, when requested by the employee;

6. Posting information on school district bulletin boards; and

7. Utilizing school district printing services.

B. Any association which utilizes school district facilities or services shall reimburse the district for any costs incurred by the district. **(70-509.11)**

Section 758. Title of Act.

Sections 551 through 563 of this title shall be known and may be cited as the "Standards for Workplace Drug and Alcohol Testing Act". **(40-551)**

Note: Amended by HB 2033, Sec. 1 of the 2011 Reg. Sess. Effective November 1, 2011.

Section 759. Definitions.

As used in the Standards for Workplace Drug and Alcohol Testing Act:

1. "Alcohol" means ethyl alcohol or ethanol;

2. "Applicant" means a person who has applied for a position with an employer and received a conditional offer of employment;

3. "Board" means the State Board of Health;

4. “Confirmation test” means a drug or alcohol test on a sample to substantiate the results of a prior drug or alcohol test on the same sample and which uses different chemical principles and is of equal or greater accuracy than the prior drug or alcohol test;

5. “Department” means the State Department of Health;

6. “Drug” means amphetamines, cannabinoids, cocaine, phencyclidine (PCP), hallucinogens, methaqualone, opiates, barbiturates, benzodiazepines, synthetic narcotics, designer drugs, or a metabolite of any of the substances listed herein;

7. “Drug or alcohol test” means a chemical test administered for the purpose of determining the presence or absence of a drug or its metabolites or alcohol in a person's bodily tissue, fluids or products. Adulteration of a specimen or of a drug or alcohol test shall be considered as a refusal to test;

8. “Employee” means any person who supplies labor for remuneration to his or her employer in this state and shall not include an independent contractor, subcontractor or employees of an independent contractor; provided, however, an independent contractor, subcontractor, or employees of an independent contractor, may be subject to a workplace drug or alcohol testing policy under the terms of the contractual agreement when the drug or alcohol testing policy applies to other workers at the job site or workers who are in the same or similar classification or group;

9. “Employer” means any person, firm, corporation, partnership, association, nonprofit organization or public employer, which has one or more employees within this state, or which has offered or may offer employment to one or more individuals in this state;

10. “Public employer” means the State of Oklahoma or any political subdivision thereof, including any department, agency, board, commission, institution, authority, public trust, municipality, county, district or instrumentalities thereof;

11. “Review officer” means a person, qualified by the State Board of Health, who is responsible for receiving results from a testing facility which have been generated by an employer's drug or alcohol testing program, and who has knowledge and training to interpret and evaluate an individual's test results together with the individual's medical history and any other relevant information;

12. “Sample” means tissue, fluid or product of the human body chemically capable of revealing the presence of drugs or alcohol in the human body; and

13. “Testing facility” means a facility which provides laboratory services to test samples for the presence of drugs or alcohol **(40-552)**

Note: Amended by HB 2033, Sec. 2 of the 2011 Reg. Sess. Effective November 1, 2011.

An employer may use an evidential breath test for both an initial alcohol test and a confirmation test. *McClure v. Conoco Phillips Company,* 2006 OK 42, 142 P.3d 390

Where the definition of “testing facility” was in controversy because two bills passed by legislature, during the same legislative session, contained irreconcilably conflicting definitions, the later-amended bill is controlling. The definition of the term “testing facility” does not include on-site drug or alcohol screening tests to screen out negative test results under certain conditions. *March 6, 2006 (AG Op. No. 06-03)*

Section 760. General Provisions.

A. The Standards for Workplace Drug and Alcohol Testing Act shall not be construed as requiring or encouraging employers to conduct drug or alcohol testing.

B. Except as provided in subsection C of this section, employers who choose to conduct drug or alcohol testing of job applicants or persons employed in this state shall be governed by the provisions of this act and the rules promulgated pursuant thereto.

C. Drug or alcohol testing required by and conducted pursuant to federal law or regulation shall be exempt from the provisions of the Standards for Workplace Drug and Alcohol Testing Act and the rules promulgated pursuant thereto.

D. This act shall not be construed as preventing the negotiation of collective bargaining agreements that provide greater protection to employees or applicants than is provided by this act. **(40-553)**

Section 761. Circumstances Permissible For Testing.

Employers may conduct drug and alcohol testing in accordance with the Standards for Workplace Drug and Alcohol Testing Act. Employers who choose to conduct drug or alcohol testing may only request or require an applicant or employee to undergo testing under any of the following circumstances:

1. Applicant testing: A public or private employer may request or require an applicant to undergo drug or alcohol testing and may use a refusal to undergo testing or a positive test result as a basis for refusal to hire;

2. For-cause testing: A public or private employer may request or require an employee to undergo drug or alcohol testing at any time it reasonably believes that the employee may be under the influence of drugs or alcohol, including, but not limited to, the following circumstances:

a. drugs or alcohol on or about the employee's person or in the employee's vicinity,

b. conduct on the employee's part that suggests impairment or influence of drugs or alcohol,

c. a report of drug or alcohol use while at work or on duty,

d. information that an employee has tampered with drug or alcohol testing at any time,

e. negative performance patterns, or

f. excessive or unexplained absenteeism or tardiness;

3. Post-accident testing: A public or private employer may require an employee to undergo drug or alcohol testing if the employee or another person has sustained an injury while at work or the employer's property has been damaged, including damage to equipment. For purposes of workers' compensation, no employee who tests positive for the presence of substances defined and consumed pursuant to Section 465.20 of Title 63 of the Oklahoma Statutes, alcohol, illegal drugs, or illegally used chemicals, or refuses to take a drug or alcohol test required by the employer, shall be eligible for such compensation;

4. Random testing: A public or private employer may request or require an employee or all members of an employment classification or group to undergo drug or alcohol testing at random and may limit its random testing programs to particular employment classifications or groups, except that a public employer may require random testing only of employees who:

a. are police or peace officers,

b. have drug interdiction responsibilities,

c. are authorized to carry firearms,

d. are engaged in activities which directly affect the safety of others,

e. are working for a public hospital including any hospital owned or operated by a municipality, county, or public trust, or

f. work in direct contact with inmates in the custody of the Department of Corrections or work in direct contact with juvenile delinquents or children in need of supervision in the custody of the Department of Human Services;

5. Scheduled, periodic testing: A public or private employer may request or require an employee to undergo drug or alcohol testing if the test is conducted as a routine part of a routinely scheduled employee fitness-for-duty medical examination or is scheduled routinely as part of the employer's written policy, except that a public employer may require scheduled, periodic testing only of employees who:

a. are police or peace officers,

b. have drug interdiction responsibilities,

c. are authorized to carry firearms,

d. are engaged in activities which directly affect the safety of others,

e. are working for a public hospital including any hospital owned or operated by a municipality, county, or public trust, or

f. work in direct contact with inmates in the custody of the Department of Corrections or work in direct contact with juvenile delinquents or children in need of supervision in the custody of the Department of Human Services; and

6. Post-rehabilitation testing: A public or private employer may request or require an employee to undergo drug or alcohol testing for a period of up to two (2) years commencing with the employee's return to work, following a positive test or following participation in a drug or alcohol dependency treatment. **(40-554)**

Note: Amended by HB 2033, Sec. 3 of the 2011 Reg. Sess. Effective November 1, 2011.

Section 762. Requirement for Preexisting Employers Policy.

A. Any employer that requests or requires an applicant or employee to undergo drug or alcohol testing shall first adopt a written policy setting forth the specifics of its drug or alcohol testing program, which may include, but is not limited to, the following information:

1. A statement of the employer's policy respecting drug or alcohol use by employees;

2. Which applicants and employees are subject to testing;

3. Circumstances under which testing may be requested or required;

4. Substances which may be tested. It shall be sufficient for an employer to state in the written policy that the substances tested shall be for drugs and alcohol;

5. Testing methods and collection procedures to be used;

6. Consequences of refusing to undergo testing;

7. Potential adverse personnel action which may be taken as a result of a positive test result;

8. The ability of an applicant and employee to explain, in confidence, the test results;

9. The ability of an applicant and employee to obtain copies of all information and records related to that individual's testing;

10. Confidentiality requirements; and

11. The available appeal procedures.

B. An employer who implements a drug or alcohol testing policy or changes its policy, shall provide at least ten (10) days' notice to its employees by:

1. Hand-delivery of a paper copy of the policy or changes to the policy;

2. Mailing a paper copy of the policy or changes to the policy through the U.S. Postal Service or a parcel delivery service to the last address given by the employee or applicant;

3. Electronically transmitting a copy of the policy through an e-mail or by posting on the employer's website or intranet site; or

4. Posting a copy in a prominent employee access area. **(40-555)**

Note: Amended by HB 2033, Sec. 4 of the 2011 Reg. Sess. Effective November 1, 2011.

Section 763. Scheduling and Costs of Testing.

Any drug or alcohol testing by an employer shall be deemed work time for purposes of compensation and benefits for current employees.

An employer shall pay all costs of testing for drugs or alcohol required by the employer. Provided, however, if an employee or applicant requests a confirmation test of a sample within twenty-four (24) hours of receiving notice of a positive test in order to challenge the results of a positive test, the employee or applicant shall pay all costs of the confirmation test, unless the confirmation test reverses the findings of the challenged positive test. In such case, the employer shall reimburse the individual for the costs of the confirmation test. **(40-556)**

Note: Amended by HB 2033, Sec. 5 of the 2011 Reg. Sess. Effective November 1, 2011.

Section 764. State Board of Health to Enforce Act.

A. The State Board of Health shall have the power and duty to promulgate, prescribe, amend and repeal rules for the licensure and regulation of testing facilities, which shall include, but not be limited to, the following:

1. Qualifications of testing facilities which shall include the requirement that facilities doing urine analysis tests be certified for forensic urine drug testing pursuant to guidelines or regulations of the federal Department of Health and Human Services or be accredited for forensic urine drug testing by the College of American Pathologists or other organizations recognized by the State Board of Health;

2. Qualifications of testing facility personnel; and

3. Procedures for the testing facility to provide the necessary documentation of testing procedures and test results to the employer requesting testing services as may be required by a court or administrative proceeding.

B. Nothing in the Standards for Workplace Drug and Alcohol Testing Act shall be construed as prohibiting an employer from adopting a policy which allows for testing for drugs or alcohol by another method which is reasonably calculated to detect the presence of drugs or alcohol, including, but not limited to, breathalyzer testing, testing by use of a single-use test device, known as an on-site or quick testing device, to collect, handle, store and ship a sample collected for testing. Provided, however, a breathalyzer test shall not be grounds for immediate termination absent a confirmation test. **(40-557)**

Note: Amended by HB 2033, Sec. 6 of the 2011 Reg. Sess. Effective November 1, 2011.

Section 765. Qualification and Licensing of Testing Facilities.

A. On and after July 1, 1994, no testing facility shall provide laboratory services to an employer to test for the presence or absence of drugs or alcohol unless it meets the qualifications established for testing facilities pursuant to Section 7 of this act and is licensed by the State Department of Health to perform such tests. The State Board of Health shall promulgate rules relating to the issuance of such license, including rules governing license revocation, suspension and nonrenewal.

B. The fees for licensure of testing facilities by the State Department of Health shall be set by the State Board of Health and shall not be more than One Hundred Fifty Dollars ($150.00) annually.

C. Any testing facility providing laboratory services to an employer to test for the evidence of drugs or alcohol which is not licensed by the State Department of Health pursuant to this section shall be subject to an administrative fine of not more than Five Hundred Dollars ($500.00) for each offense. Each test performed by the unlicensed testing facility in violation of this section shall constitute a separate offense. **(40-558)**

Evidential breath tests are laboratory services which must be confirmed by a licensed testing facility before an employee may take disciplinary action against employee. *Estes v. Conoco Phillips Co., 2008 OK 21*

Section 766. Sample Collecting and Testing.

All sample collection and testing for drugs and alcohol pursuant to the provisions of this act shall be conducted in accordance with the following conditions:

1. Samples shall be collected and tested only by individuals deemed qualified by the State Board of Health and may be collected on the premises of the employer;

2. Only samples deemed appropriate by the State Board of Health for drug and alcohol testing shall be collected;

3. The collection of samples shall be performed under reasonable and sanitary conditions;

4. A sample shall be collected in sufficient quantity for splitting into two separate specimens, pursuant to rules of the State Board of Health, to provide for any subsequent independent analysis in the event of challenge of the test results of the main specimen;

5. Samples shall be collected and tested with due regard to the privacy of the individual being tested. In the instances of urinalysis, no employer or representative, agent or designee of the employer shall directly observe an applicant or employee in the process of producing a urine sample; provided, however, collection shall be in a manner reasonably calculated to prevent substitution or interference with the collection or testing of reliable samples;

6. Sample collection shall be documented, and the documentation procedures shall include:

a. labeling of samples so as reasonably to preclude the probability of erroneous identification of test results, and

b. an opportunity for the applicant or employee to provide notification of any information which the applicant or employee considers relevant to the test, including identification of currently or recently used prescription or nonprescription drugs, or other relevant information:

7. Sample collection, storage, and transportation to the testing facility shall be performed so as reasonably to preclude the probability of sample contamination or adulteration;

8. Sample testing shall conform to scientifically accepted analytical methods and procedures. Testing shall include confirmation of any positive test result by gas chromatography, gas chromatography-mass spectroscopy, or an equivalent scientifically accepted method of equal or greater accuracy as approved by Board rule, at the cutoff levels as determined by Board rule, before the result of any test may be used as a basis for refusal to hire a job applicant or any action by an employer pursuant to Section 12 of this act; and

9. A written record of the chain of custody of the sample shall be maintained from the time of the collection of the sample until the sample is no longer required. **(40-559)**

Section 767. Disposition of Test Records.

A. Records of all drug and alcohol test results and related information maintained by the employer shall be the property of the employer and, upon the request of the applicant or employee tested, shall be made available for

inspection and copying to the applicant or employee. An employer shall not release such records to any person other than the applicant, employee or the employer's review officer, unless the applicant or employee, in writing following receipt of the test results, has expressly granted permission for the employer to release such records in order to comply with a valid judicial or administrative order. A written record of the chain of custody of the sample shall be maintained from the time of the collection of the sample until the sample is no longer required.

B. A testing facility, or any agent, representative or designee of the facility, or any review officer, shall not disclose to any employer, based on the analysis of a sample collected from an applicant or employee for the purpose of testing for the presence of drugs or alcohol, any information relating to the general health, pregnancy or other physical or mental condition of the applicant or employee.

A testing facility shall release the results of the drug or alcohol test, and any analysis and information related thereto, to the individual tested upon request. **(40-560)**

Note: Amended by HB 2033, Sec. 7 of the 2011 Reg. Sess. Effective November 1, 2011.

Records of drug and alcohol test results and related information must be maintained separately from other personnel records and must be kept confidential. *October 13, 1997 (AG Op. No. 97-79)*

Section 768. Repealed.

Note: Repealed by HB 2033, Sec. 10 of the 2011 Reg. Sess. Effective November 1, 2011.

Section 769. Requirement for Confirmation Test Prior to Discipline.

A. An employer's policy shall state the disciplinary actions that may be taken upon a refusal to undergo a drug or alcohol test or for a positive test for the presence of drugs or alcohol.

B. An employer may take disciplinary action, up to and including discharge, against an employee who refuses to undergo drug or alcohol testing conducted in accordance with the provisions of Section 551 et seq. of this title or who tests positive for the presence of drugs or alcohol.

C. An employee discharged on the basis of a refusal to undergo drug or alcohol testing or a positive drug or alcohol test shall be considered to have been discharged for misconduct for purposes of unemployment compensation benefits as provided for in Section 2-406A of this title. In order to prove misconduct, the employer need only provide proof of a testing policy and either a refusal to take a drug or alcohol test or a positive test result.

D. Notwithstanding any provision of law for confidentiality of drug or alcohol testing results, nothing in the Standards for Workplace Drug and Alcohol Testing Act shall preclude an employer, contracting with another employer, from sharing drug or alcohol testing results of any tested person who works pursuant to such contractual agreement. **(40-562)**

Note: Amended by HB 2033, Sec. 8 of the 2011 Reg. Sess. Effective November 1, 2011.

Section 770. Civil Remedy for Violations.

A. Any person aggrieved by a willful violation of the Standards for Workplace Drug and Alcohol Testing Act may institute a civil action in a court of competent jurisdiction within one (1) year of the alleged willful violation or be barred from obtaining the relief provided for in subsection B of this section. A willful violation of the Standards for Workplace Drug and Alcohol Testing Act requires proof by the preponderance of the evidence that the employer had a specific intent to violate the act.

B. A prevailing party may be awarded lost wages to which the person would have been entitled and an additional equal amount as liquidated damages. Interim earnings or amounts earnable with reasonable diligence by the aggrieved person shall operate to reduce the lost wages otherwise allowable. Reasonable costs and attorney fees may be awarded to the prevailing party, whether plaintiff or defendant. **(40-563)**

Note: Amended by HB 2033, Sec. 9 of the 2011 Reg. Sess. Effective November 1, 2011.

For the purposes of the Oklahoma Standards for Workplace Drug and Alcohol Testing Act, the term "willful violation" means conscious, purposeful violations or deliberate disregard of the Testing Act by those who know or should have know of its provisions. *Estes v. Conoco Phillips Co., 2008 OK 21*

An employer may use an evidential breath test for both an initial alcohol test and a confirmation test. *McClure v. Conoco Phillips Company,* 2006 OK 42, 142 P.3d 390

Section 771. Repealed.

Note: Repealed by HB 2033, Sec. 10 of the 2011 Reg. Sess. Effective November 1, 2011.

Section 772. Repealed.

Note: Repealed by HB 2033, Sec. 10 of the 2011 Reg. Sess. Effective November 1, 2011.

Section 773. Disqualification for Unemployment Benefits for Refusal to Test.

An employee discharged on the basis of a refusal to undergo drug or alcohol testing or a confirmed positive drug or alcohol test conducted in accordance with the provisions of the Standards for Workplace Drug and Alcohol Testing Act shall be considered to have been discharged for misconduct and shall be disqualified for benefits pursuant to the provisions of Section 2-406 of this title. **(40-2-406.1)**

Section 774. State and Education Employees Group Insurance Act.

This act shall be known and may be cited as the "State and Education Employees Group Insurance Act". **(74-1301)**

Section 775. Purpose.

It is hereby declared that the purpose of this act is:

(a) To provide uniformity in Accident and Health Insurance and/or Benefits Coverage and Life Insurance on all employees of the State of Oklahoma.

(b) To enable the state to attract and retain qualified employees by providing health, dental and life insurance benefits similar to those commonly provided in private industry;

(c) To recognize and protect the state's investment in each permanent employee by promoting and preserving good health and longevity among state employees;

(d) To recognize the service to the state by elected and appointed officials by extending to them the same health, dental and life insurance benefits as are provided herein for state employees;

(e) To recognize long and faithful service, and to encourage employees to remain in state service until eligible for retirement by providing health, dental and life insurance benefits for employees; and

(f) To ensure state compliance with the Health Maintenance Organization Act of 1973 pursuant to 42 U.S.C., Section 300e et seq. **(74-1302)**

Section 776. Definitions.

For the purposes of and as used in the State and Education Employees Group Insurance Act:

1. "Board" means the State and Education Employees Group Insurance Board as created by the State and Education Employees Group Insurance Act;

2. "Employee" means those state employees, education employees and other eligible employees participating in the State and Education Employees Group Insurance Act;

3. “Education Employee” means those employees other than adjunct professors employed by a state institution of higher education, in the service of an education entity who are members or are or will be eligible to become members of the Teachers’ Retirement System of Oklahoma and who receive compensation for such service after the education entity begins to participate in the State and Education Employees Group Insurance Act and visiting faculty who are not eligible for membership in the Teachers’ Retirement System of Oklahoma;

4. “Adjunct Professor” means a person employed by an institution of higher education who is attached in a subordinate or temporary capacity to the faculty or staff, and who is contracted to instruct in a given specific discipline;

5. “Visiting Faculty” means a person employed by an institution of higher education who is not eligible for academic rank or tenure, other than an adjunct professor, and who is contracted to instruct in a given specific discipline generally not to exceed one (1) academic year;

6. “Education Entity” means a school district, a technology center school district, or an institution comprising The Oklahoma State System of Higher Education;

7. “State Employee” means and includes each officer or employee in the service of the State of Oklahoma who, after January 1, 1966, received compensation for service rendered to the State of Oklahoma on a warrant issued pursuant to a payroll certified by a department or by an elected or duly appointed officer of the state or who receives payment for the performance of personal services on a warrant issued pursuant to a payroll certified by a department and drawn by the State Treasurer against appropriations made by the Legislature from any state fund or against trust funds held by the State Treasurer, who is employed in a position normally requiring actual performance of duty during not less than one thousand (1,000) hours per year, and whose employment is not seasonal or temporary, except that a person elected by popular vote will be considered an employee during the person’s tenure in office; provided, however, that employees who are otherwise eligible who are on approved leave without pay shall be eligible to continue coverage during such leave not to exceed twenty-four (24) months, as provided in the Merit Rules for Employment published by the Office of Personnel Management, from the date the employee goes on such leave provided the employee pays the full premiums due or persons who are drawing disability benefits under Section 1331 et seq. of this title or meet each and every requirement of the State Employees Disability Program shall be eligible to continue coverage provided the person pays the full premiums due;

8. “Carrier” means the State of Oklahoma or a state designated Health Maintenance Organization (HMO). Such HMO shall be a federally qualified Health Maintenance Organization under 42 U.S.C., Section 300e et seq.;

9. “Health Insurance Plan” means a self-insured plan by the State of Oklahoma for the purpose of paying the cost of hospital and medical care up to the maximum coverage provided by said plan or prepaid medical plan(s) offered to employees as an alternative to the state-administered plan by federally qualified HMOs which have contracted with the state;

10. “Life Insurance Plan” means a self-insured plan for the purpose of paying death and dismemberment benefits up to the maximum coverage provided by the plan;

11. “Dental Benefits Plan” means a plan by the State of Oklahoma for the purpose of paying the cost of dental care up to the maximum coverage provided by the plan; whenever the term “Dental Insurance Plan” or a term of like import appears in the State and Education Employees Group Insurance Act, the term shall mean “Dental Benefits Plan”;

12. “Other insurance” means any type of coverage other than basic hospital and medical benefits, major medical benefits, comprehensive benefits, life insurance benefits or dental insurance benefits, which the Board may be directed to offer;

13. “Dependent” means an employee’s spouse or any unmarried child (1) under the age of twenty-five (25) years, regardless of residence, provided that the employee is primarily responsible for their support, including (a) an adopted child and (b) a stepchild or child who lives with the employee in a regular parent-child relationship, or (2) regardless of age who is incapable of self-support because of mental or physical incapacity that existed prior to reaching the age of twenty-five (25) years;

14. “Comprehensive benefits” means benefits which reimburse the expense of hospital room and board, other hospital services, certain outpatient expenses, maternity benefits, surgical expense, including obstetrical care, in-hospital

medical care expense, diagnostic radiological and laboratory benefits, physicians' services provided by house and office calls, treatments administered in physicians' office, prescription drugs, psychiatric services, Christian Science practitioners' services, Christian Science nurses' services, optometric medical services for injury or illness of the eye, home health care, home nursing service, hospice care, and such other benefits as may be determined by the Board. Such benefits shall be provided on a copayment or coinsurance basis, the insured to pay a proportion of the cost of such benefits, and may be subject to a deductible that applies to all or part of the benefits as determined by the Board; and

15. "Life insurance coverage" shall include a maximum amount of basic life insurance or benefit with or without a double indemnity provision and an amount of accidental death and dismemberment insurance or benefit per employee to be provided by the State of Oklahoma, and the employee shall have the option to purchase additional life insurance or benefits on the employee's life up to the amount provided by the plan. Such basic life insurance benefits, with or without double indemnity, and accidental death and dismemberment benefits shall not exclude coverage for death or dismemberment resulting from war, insurrection or riot. The Board may also extend dependent life insurance in an amount to be determined by the Board to each insured employee who elects to insure the employee's eligible dependents. Premiums for the dependent life insurance shall be paid wholly by the employee. **(74-1303)**

School districts are only authorized to purchase health insurance for student if they meet the statutory definition of "employees." *February 6, 1990 (AG Op. No. 89-58)*

Section 777. State and Education Employees Group Insurance Board.

(1) There is hereby created the State and Education Employees Group Insurance Board which shall consist of eight (8) members as follows: The State Insurance Commissioner, or the Commissioner's designee who shall be an employee of the Insurance Department, the Director of the Office of State Finance, two members appointed by the Governor, two members appointed by the Speaker of the House of Representatives, and two members appointed by the President Pro Tempore of the Senate. The appointed members shall each receive compensation of Five Hundred Dollars ($500.00) per month. Appointed members who fail to attend a regularly scheduled monthly meeting of the Board shall not receive the related monthly compensation. In the event an appointed member does not attend at least seventy-five percent (75%) of the regularly scheduled monthly meetings of the Board during a calendar year, the appointing authority may remove the member. A member may also be removed for any other cause as provided by law. A vacancy in the office of the appointed member shall be filled for the unexpired term of office in the same manner as the original appointment.

(2) The initial term of office of the members appointed by the Governor shall expire on January 14, 1991. The members thereafter appointed by the Governor shall serve a term of office of four (4) years which is coterminous with the term of office of the office of the appointing authority.

(3) The initial term of office of one of the members appointed each by the Speaker of the House of Representatives and by the President Pro Tempore of the Senate shall be for the period ending June 30, 1992. The initial term of office of the other member appointed each by the Speaker of the House of Representatives and by the President Pro Tempore of the Senate shall be for the period ending June 30, 1994. Thereafter, the term of office of the members appointed by the Speaker of the House of Representatives and by the President Pro Tempore of the Senate shall be four (4) years.

(4) The appointed members shall:

(a) have demonstrated professional experience in investment or funds management, public funds management, public or private group health or pension fund management, or group health insurance management; or

(b) be licensed to practice law in this state and have demonstrated professional experience in commercial matters; or

(c) be licensed by the Oklahoma Accountancy Board to practice in this state as a public accountant or a certified public accountant.

In making appointments that conform to the requirements of this subsection, at least one (1) but not more than three (3) members shall be appointed each from paragraphs (b) and (c) of this subsection by the combined appointing authorities.

(5) No appointed member of the State and Education Employees Group Insurance Board shall be a lobbyist registered in this state as provided by law, a health care provider, a plan participant, be employed, directly or indirectly, by any insurance company or carrier, or health care provider, or be employed directly or indirectly, by any firm under contract to the Board for any goods or services whatsoever. Provided, however, if an appointed member of the Board was a plan participant of any insurance plans offered by the Board at the time the member was appointed to serve as a member of the Board, and the appointed member of the Board forfeited participation in the insurance plans in order to serve on the Board, the member of the Board may resume participation in said insurance plans upon leaving the Board.

(6) The State and Education Employees Group Insurance Board shall not be subject to the provisions of the Oklahoma Sunset Law, Section 3901 et seq. of this title.

(7) The Attorney General shall furnish the Board with legal representation.

(8) The Court Administrator shall designate grievance panel members as shall be necessary. The members of the grievance panel shall consist of two attorneys licensed to practice law in this state and one state licensed health care professional or health care administrator who has at least three (3) years practical experience, has had or has admitting privileges to a State of Oklahoma hospital, has a working knowledge of prescription medication, or has worked in an administrative capacity at some point in their career. The state health care professional shall be appointed by the Governor. At the Governor's discretion, one or more qualified individuals may also be appointed as an alternate to serve on the grievance panel in the event the Governor's primary appointee becomes unable to serve.

(9) The Board shall at its first meeting elect one of its members as chair. The chair shall preside over meetings of the Board and perform such other duties as may be required by the Board.

(10) The Board shall elect another member to serve as vice- chair who shall perform the duties of the chair in the absence of the latter or upon the inability or refusal to act.

(11) The Board shall also elect a secretary who shall keep minutes of all meetings and who shall certify to actions of the Board.

(12) The Board shall adopt rules requiring payment for medical and dental services and treatment rendered by duly licensed hospitals, physicians and dentists. Unless the Board has otherwise contracted with the out-of-state health care provider, the Board shall reimburse for medical services and treatment rendered and charged by an out-of-state health care provider at least at the same percentage level as the network percentage level of the fee schedule established by the State and Education Employees Group Insurance Board if the insured employee was referred to the out-of-state health care provider by a physician or it was an emergency situation and the out-of-state provider was the closest in proximity to the place of residence of the employee which offers the type of health care services needed. For purposes of this paragraph, health care providers shall include, but not be limited to, physicians, dentists, hospitals and special care facilities.

(13) The Board may contract with a pay-for-performance program provider. The contract shall be with a group practice of a medical school with at least three hundred fifty providers in its panel for a statistically significant demonstration project among employee enrollees that select to participate in the program. The purpose of the program is to test a program's value proposition that offers financial incentives to both the health care provider and the patient for incorporating evidence-based medicine guidelines and information therapy prescriptions in the rendering and utilizing of health care. This program must offer the health care provider the flexibility to use the health care provider's clinical judgment to adhere to or deviate from the program's guidelines and still receive a financial incentive as long as the health care provider prescribes information therapy to the patient. The program shall offer a financial reward to the patient for responding to the information therapy prescription by demonstrating the patient's understanding of the patient's health condition, by demonstrating adherence to recommended care, and by judging the quality of care given to the patient against these guidelines. The program shall be offered and administered through an Internet application. This demonstration project shall collect and analyze data over a period of two (2) years in order to determine its effectiveness.

(14) The State and Education Employees Group Insurance Board may enter into a contract with out-of-state providers in connection with any PPO or hospital or medical network plan which shall include, but not be limited to, special care facilities and hospitals outside the borders of the State of Oklahoma. The contract for out-of-state providers

shall be identical to the in-state provider contracts. The State and Education Employees Group Insurance Board may negotiate for discounts from billed charges when the out-of-state provider is not a network provider and the member sought services in an emergency situation, when the services were not otherwise available in the State of Oklahoma or when the Administrator approved the service as an exceptional circumstance.

(15) The Administrator shall appoint an advisory committee to the State and Education Employees Group Insurance Board. The advisory committee shall consist of seven (7) members. Of the members appointed to the advisory committee, at least one member must be an active state employee, at least one member must be a retired state employee, at least one member must be an active education employee, at least one member must be a retired education employee, and at least one member must be either an active county employee or a retired county employee. **(74-1304)**

Section 778. Board Meetings - Quorum - Expenses - Investment Committee.

(1) The Board shall hold regular meetings at least once each quarter in Oklahoma City, the date, time, and place thereof to be fixed by the Board. The Board shall in July of each year hold a regular meeting which shall be the annual meeting, at which meeting it shall elect its officers.

(2) Special meetings may be called upon written notice of the chairman or by agreement of any five members of the Board. Notice of a special meeting shall be delivered to all members in person or by registered or certified United States mail not less than seven (7) days prior to the date fixed for the meeting; provided, however, that notice of such meeting may be waived by any member either before or after such meeting and attendance at such meeting shall constitute a waiver of notice of such meeting, unless a member participates therein solely to object to the transaction of any business because the meeting has not been legally called or convened.

(3) A majority of the members of the Board shall constitute a quorum for the transaction of business, and any official action of the Board must have a favorable vote by a majority of the members of the Board present.

(4) The members shall be reimbursed for their expenses, according to the State Travel Reimbursement Act, as are incurred in the performance of their duties, which shall be paid from the Health Insurance Reserve Fund. No Board member shall be individually or personally liable for any action of the Board.

(5) The members of the Board, the Administrator and the employees of the Board shall not accept gifts or gratuities from an individual organization with a value in excess of Fifty Dollars ($50.00) per year. The provisions of this section shall not be construed to prevent the members of the Board, the Administrator or the employees of the Board from attending educational seminars, conferences, meetings, or similar functions which are paid for directly or indirectly by more than one organization. **(74-1305)**

Section 779. Powers and Duties of Board.

The State and Education Employees Group Insurance Board shall administer and manage the group insurance plans and the flexible benefits plan and, subject to the provisions of the State and Education Employees Group Insurance Act and the State Employees Flexible Benefits Act, shall have the following powers and duties:

1. The preparation of specifications for such insurance plans as the Board may determine to be appropriate;

2. The authority and duty to request bids through the Purchasing Division of the Department of Central Services for a contract to be the claims administrator for all or any part of such insurance and benefit plans as the Board may offer;

3. The determination of the methods of claims administration under such insurance and benefit plans as the Board may offer;

4. The determination of the eligibility of employees and their dependents to participate in each of the Group Insurance Plans and in such other insurance and benefit plans as the Board may offer and the eligibility of employees to participate in the Life Insurance Plan provided that evidence of insurability shall not be a requirement in determining an employee's initial eligibility;

5. The determination of the amount of employee payroll deductions and the responsibility of establishing the procedure by which such deduction shall be made;

6. The establishment of a grievance procedure by which a three-member grievance panel shall act as an appeals body for complaints by insured employees regarding the allowance and payment of claims, eligibility, and other matters. Except for grievances settled to the satisfaction of both parties prior to a hearing, any person who requests in writing a hearing before the grievance panel shall receive a hearing before the panel. The grievance procedure provided by this paragraph shall be the exclusive remedy available to insured employees having complaints against the insurer. Such grievance procedure shall be subject to the Oklahoma Administrative Procedures Act, including provisions thereof for review of agency decisions by the district court. The grievance panel shall schedule a hearing regarding the allowance and payment of claims, eligibility and other matters within sixty (60) days from the date the grievance panel receives a written request for a hearing unless the panel orders a continuance for good cause shown. Upon written request by the insured employee to the grievance panel and received not less than ten (10) days before the hearing date, the grievance panel shall cause a full stenographic record of the proceedings to be made by a competent court reporter at the insured employee's expense;

7. The continuing study of the operation of such insurance and benefit plans as the Board may offer including such matters as gross and net costs, administrative costs, benefits, utilization of benefits, and claims administration;

8. The administration of the Health, Dental and Life Insurance Reserve Fund or Funds, the Flexible Benefits Revolving Fund and the Education Employees Group Insurance Reserve Fund;

9. The auditing of the claims paid pursuant to the provisions of the State and Education Employees Group Insurance Act, the State Employees Flexible Benefits Act and the State Employees Disability Program Act;

10. a. To select and contract with federally qualified Health Maintenance Organizations under the provisions of 42 U.S.C., Section 300e et seq. or with Health Maintenance Organizations granted a certificate of authority by the Insurance Commissioner pursuant to Sections 6901 through 6951 of Title 36 of the Oklahoma Statutes for consideration by employees as an alternative to the state self-insured health plan, and to transfer to the HMOs such funds as may be approved for an employee electing HMO alternative services. The Board may also select and contract with a vendor to offer a point-of-service plan. An HMO may offer coverage through a point-of-service plan, subject to the guidelines established by the Board. However, if the Board chooses to offer a point-of-service plan, then a vendor that offers both an HMO plan and a point-of-service plan may choose to offer only its point-of-service plan in lieu of offering its HMO plan.

b. Benefit plan contracts with the State and Education Employees Group Insurance Board, Health Maintenance Organizations, and other third-party insurance vendors shall provide for a risk adjustment factor for adverse selection that may occur, as determined by the Board, based on generally accepted actuarial principles. The risk adjustment factor shall include all members participating in the plans offered by the State and Education Employees Group Insurance Board. The Oklahoma State Employees Benefits Council shall contract with an actuary to provide the above actuarial services, and shall be reimbursed for these contract expenses by the Board.

c. Effective for the plan year beginning January 1, 2007, and for each year thereafter, in setting health insurance premiums for active employees and for retirees under sixty-five (65) years of age, HMOs, self-insured organizations and prepaid plans shall set the monthly premium for active employees to be equal to the premium for retirees under sixty-five (65) years of age;

11. To contract for reinsurance, catastrophic insurance, or any other type of insurance deemed necessary by the Board. Provided, however, that the Board shall not offer a health plan which is owned or operated by the state and which utilizes a capitated payment plan for providers which uses a primary care physician as a gatekeeper to any specialty care provided by physician-specialists, unless specifically authorized by the Legislature;

12. The Board, pursuant to the provisions of Section 250 et seq. of Title 75 of the Oklahoma Statutes, shall adopt such rules consistent with the provisions of the State and Education Employees Group Insurance Act as it deems necessary to carry out its statutory duties and responsibilities. Emergency Rules adopted by the Board and approved by the Governor which are in effect on the first day of the Regular Session of the Oklahoma Legislature shall not become null and void until January 15 of the subsequent calendar year;

13. The Board shall contract for claims administration services with a private insurance carrier or a company experienced in claims administration of any insurance that the Board may be directed to offer. No contract for claims administration services shall be made unless such contract has been offered for bids through the Purchasing Division of the Department of Central Services. The Board shall contract with a private insurance carrier or other experienced claims administrator to process claims with software that is normally used for its customers;

14. The Board shall contract for utilization review services with a company experienced in utilization review, data base evaluation, market research, and planning and performance of the health insurance plan;

15. The Board shall have the authority to determine all rates and life, dental and health benefits. Except as otherwise provided for in Section 1321 of this title, the Board shall not have the authority to adjust the premium rates after approval. The Board shall submit notice of the amount of employee premiums and dependent premiums along with an actuarial projection of the upcoming fiscal year's enrollment, employee contributions, employer contributions, investment earnings, paid claims, internal expenses, external expenses and changes in liabilities to the Director of the Office of State Finance and the Director of the Legislative Service Bureau no later than March 1 of the previous fiscal year.

Effective for the plan year beginning January 1, 2007, and for each plan year thereafter, in setting health insurance premiums for active employees and retirees under sixty-five (65) years of age, the Board shall set the monthly premium for active employees to be equal to the monthly premium for retirees under sixty-five (65) years of age;

16. Before December 1 of each year the Board shall submit to the Director of the Office of State Finance a report outlining the financial condition for the previous fiscal year of all insurance plans offered by the Board. The report shall include a complete explanation of all reserve funds and the actuarial projections on the need for such reserves. The report shall include and disclose an estimate of the future trend of medical costs, the impact from HMO enrollment, antiselection, changes in law, and other contingencies that could impact the financial status of the plan. The Director of the Office of State Finance shall make written comment on the report and shall provide such comment, along with the report submitted by the Board, to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Chair of the Oklahoma State Employees Benefits Council by January 15;

17. The Board shall establish a prescription drug card network;

18. The Board shall have the authority to intercept monies owing to plan participants from other state agencies, when those participants in turn, owe money to the Board. The Board shall be required to adopt rules and regulations ensuring the participants due process of law;

19. The Board is authorized to make available to eligible employees supplemental health care benefit plans to include but not be limited to long-term care, deductible reduction plans and employee co-payment reinsurance. Premiums for said plans shall be actuarially based and the cost for such supplemental plans shall be paid by the employee;

20. Beginning with the plan year which begins on January 1, 2006, the Board shall select and contract with one or more providers to offer a group TRICARE Supplement product to eligible employees who are eligible TRICARE beneficiaries. Any membership dues required to participate in a group TRICARE Supplement product offered pursuant to this paragraph shall be paid by the employee. As used in this paragraph, "TRICARE" means the Department of Defense health care program for active duty and retired uniform service members and their families;

21. There is hereby created as a joint committee of the State Legislature, the Joint Liaison Committee on State and Education Employees Group Insurance Benefits, which Joint Committee shall consist of three members of the Senate to be appointed by the President Pro Tempore thereof and three members of the House of Representatives to be appointed by the Speaker thereof. The Chair and Vice Chair of the Joint Committee shall be appointed from the membership thereof by the President Pro Tempore of the Senate and the Speaker of the House of Representatives, respectively, one of whom shall be a member of the Senate and the other shall be a member of the House of Representatives. At the beginning of the first regular session of each Legislature, starting in 1991, the Chair shall be from the Senate; thereafter the chairship shall alternate every two (2) years between the Senate and the House of Representatives.

The Joint Liaison Committee on State and Education Employees Group Insurance Benefits shall function as a committee of the State Legislature when the Legislature is in session and when the Legislature is not in session. Each appointed member of said committee shall serve until his or her successor is appointed.

The Joint Liaison Committee on State and Education Employees Group Insurance Benefits shall serve as a liaison with the State and Education Employees Group Insurance Board regarding advice, guidance, policy, management, operations, plans, programs and fiscal needs of said Board. Said Board shall not be bound by any action of the Joint Committee; and

21. The State and Education Employees Group Insurance Board shall annually collect its own set of performance measures comparable to the Health Plan Employer Data and Information Set (HEDIS) for the purpose of assessing the quality of its HealthChoice plans and the other services it provides. **(74-1306)**

Section 780. Rights of Subrogation.

A. The Board shall have the right of subrogation to recover any payments made for injury to an employee party's wrongful act or negligence. The Board, the Administrator or the Board's attorney shall have the authority to waive or reduce subrogation in individual cases when the exercise of the right of subrogation would create an extreme financial hardship on the employee or dependent.

B. Subrogation will exist only to the extent of actual claims paid.

C. If an employee or dependent has prejudiced the Board's right of subrogation by releasing the responsible party prior to submitting claims to the Board, such claims may be denied by the Board. If claims are submitted and paid after the employee or dependent has released the responsible party, the Board shall be entitled to bring an action against the employee, dependent, or their assignees, for any such claims paid and for additional costs incurred by the Board including, but not limited to: interest, administrative and adjudicative costs, and attorney's fees. **(74-1306.1)**

Section 781. Specifications.

A. The specifications drawn by the Board for the Health Insurance Plan shall provide for comprehensive hospital medical and surgical benefits. The Health Insurance Plan may limit coverage for a particular illness, disease, injury or condition; but, except for such limits, shall not exclude or limit particular services or procedures that can be provided for the diagnosis and treatment of an illness, disease, injury or condition, so long as the services and procedures provided are of sound efficacy, are medically necessary, and fall within the licensed scope of practice of the practitioner providing same. The Health Insurance Plan may contract with providers for specific services based on levels of outcomes defined by the State and Education Employees Group Insurance Board and achieved by the provider. The Health Insurance Plan may provide for the application of deductibles and copayment or coinsurance provisions, when equally applied to all covered charges for services and procedures that can be provided by any practitioner for the diagnosis and treatment of a particular illness, disease, injury or condition unless deductibles, copayments or coinsurance variations are based on contracts with providers for specific services based on levels of outcomes.

B. The Life Insurance Plan shall include Accidental Death and Dismemberment Benefits and additional optional life insurance coverage. **(74-1307)**

Note: Amended by HB 1062, Sec. 1 of the 2011 Reg. Sess. Effective November 1, 2011.

Section 782. Change of Primary Care Physician Within HMO.

No employee or dependent who participates in a HMO through the State Employees Group Insurance Act shall be denied the right of changing his primary care physician to any other primary care physician with the HMO. The employee or dependent shall notify the HMO in writing of any change in his choice of primary care physician forty-five (45) days in advance of such change by certified mail with return receipt requested. Any such change in a primary care physician shall not be subject to the approval of the HMO, the State Employees Group Insurance Board or state agency. **(74-1307.1)**

Section 783. Enrollment in Plan.

(1) Any employee eligible for membership in the Health Insurance Plan, Dental Insurance Plan or Life Insurance Plan upon its effective date shall be enrolled in the plan unless he or she elects not to be enrolled within thirty (30) days of such effective dates. The employee shall be advised of Health Maintenance Organization prepaid plans available as an alternative to the state self-insured Health Insurance Plan. The Board shall establish the procedure by which eligible employees not electing to be enrolled initially in the Health Insurance Plan, Dental Insurance Plan or Life Insurance Plan may be subsequently enrolled.

(2) Any eligible employee who is employed after the effective dates of the Health Insurance Plan, Dental Insurance Plan and Life Insurance Plan or HMO plans approved by the Board may become enrolled on the first day of the second month of employment. **(74-1308)**

Section 784. Procedure for Participation.

(1) An educational entity may extend the benefits of the health insurance plan, the dental insurance plan, and the life insurance plan to education employees employed by said entity. The benefits of said plans for an education employee shall be the same and shall include the same plan options as would be made available to a state employee participating in the plan that resided at the same location. Notwithstanding the provisions of Section 1308.2 of this title, a period shall exist for enrolling education entities from April 1, 1989 through October 1, 1991, whereby education employees of a participating education entity may be enrolled, pursuant to this act, during the entities' initial enrollment period, regardless of preexisting conditions. The Board shall adopt rules and regulations for enrollment by which education entities may apply to participate in said insurance plans. Once an education entity becomes a participant in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act, the education entity may withdraw from said participation, in a manner prescribed by the Board. If a school district is participating in the health and dental insurance plans pursuant to the State and Education Employees Group Insurance Act, Section 1301 et seq. of this title, the employees of the school district who are eligible to participate in the health and dental plans, at such time as the school district may withdraw from such participation, may require the board of education of the school district to call an election to allow said employees to vote as to whether the school district shall continue participation in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act. Upon the filing with the board of education of a petition calling for such an election which is signed by no less than thirty percent (30%) of the eligible employees of the school district, the board of education shall call an election for the purpose of determining whether the school district shall continue participation in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act. The election shall be held within thirty (30) days of the filing of the petition. If a majority of those eligible employees voting at the election vote to continue participation in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act, the board of education shall be prohibited from withdrawing the school district from such participation. If a majority of those eligible employees voting at the election vote against continued participation in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act, the board of education of the school district shall apply to discontinue such participation within thirty (30) days of the election and within the times the school district is authorized to withdraw from participation in accordance with rules established for withdrawal by the State and Education Employees Group Insurance Board.

(2) Except as otherwise provided in this subsection, when an education entity participates in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act, all employees shall be advised of Health Maintenance Organizations prepaid plans available as an alternative to the state self-insured health insurance plan. Eligible part-time education employees, at the option of the employee, may enroll in the plans either at the time the education entity begins participation in the plans or, if later, upon a showing of insurability to the satisfaction of the Board.

(3) Any employee of an education entity participating in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act who is employed after the education entity began said participation may be enrolled in the health and dental insurance plans or HMO plans approved by the Board on the first day of the second month of employment.

(4) Upon initial enrollment of an institution of higher education to participate in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act, all individuals presently insured by said

institution's present group health insurance plan shall become enrolled in said state plans for the remaining period of said institution's contractual liabilities.

(5) Education employees who shall be absent from the teaching service because of election or appointment as a local, state, or national education association officer shall be allowed to retain coverage pursuant to the State and Education Employees Group Insurance Act upon the payment of the full cost of the coverage at the rate and under such terms and conditions established by the Board.

(6) Except as otherwise provided by law, an educational entity may cease to participate in the State and Education Employees Group Insurance Act but provide health insurance coverage through another insurance carrier. The subsequent carrier shall provide coverage to the employees of the educational entity who terminated employment with a retirement benefit, with a vested benefit, or who have ten (10) or more years of service with a participating educational entity but did not have a vested benefit through the retirement system of the educational entity, if the election to retain health insurance coverage was made within thirty (30) days of termination of employment. Coverage shall also be provided to the eligible dependents of the employees if an election to retain coverage is made within thirty (30) days of termination of employment. **(74-1308.1)**

Section 785. Exception to Preexisting Condition Exclusion.

Any person eligible to begin coverage in the health insurance plan pursuant to the State and Education Employees Group Insurance Act shall not be subject to a preexisting condition exclusion if the person was continuously covered under a previous group health insurance plan, was eligible to use military medical facilities, or was eligible to use Indian health services medical facilities. **(74-1308.2)**

Section 785.1. Opt-Out Option.

Any active employee eligible to participate or who is a participant may opt out of the state's basic plan as outlined in Sections 1370 and 1371 of Title 74 of the Oklahoma Statutes, provided that the participant is currently covered by a separate group health insurance plan. Any active employee eligible to participate or who is a participant opting out of coverage pursuant to this section shall provide proof of the separate health insurance plan participation and sign an affidavit attesting that the participant is currently covered and does not require state-provided health insurance each plan year. Any active employee opting out of coverage pursuant to this section shall receive One Hundred Fifty Dollars ($150.00) in lieu of the flexible benefit amount the employee would be otherwise eligible to receive. Any savings realized by the state as a result of a participant opting out of health insurance plan coverage shall be retained by the state. **(74-1308.3)**

Note: Enacted by HB 1062, Sec. 21 of the 2011 Reg. Sess. Effective November 1, 2011.

Section 786. Dependents.

A. Any eligible employee may elect to have a dependent or dependents of the employee covered by the Health Insurance Plan and Dental Insurance Plan or by any available Health Maintenance Organization (HMO) approved by the Board. The employee may elect to cover all dependent children and not elect to cover the spouse of the employee. Such election shall be made at the time the employee becomes enrolled in the Plan, under such procedures as the Board may establish. If dependent coverage is not elected or if the employee elects to cover all dependent children and not the spouse of the employee at the time an employee becomes enrolled in the Plan, dependent coverage or coverage for the spouse cannot be elected until the next enrollment period or until a qualifying event has occurred as established by the Board. Such subsequent election of dependent coverage shall be made under such conditions as the Board may impose. If electing not to cover the spouse, the employee shall submit a statement signed by both the employee and the spouse acknowledging their choice not to provide insurance coverage for the spouse under the Health Insurance Plan and Dental Insurance Plan or approved HMO plans.

B. Any employee with dependent coverage, as provided in this section, who has a change in the number of dependents may at the time of such change increase or decrease the number of dependents covered by the Health Insurance Plan and Dental Insurance Plan or approved HMO plans, under procedures established by the Board.

C. Any employee who has no eligible dependents at the time the employee becomes enrolled may elect dependent coverage at the time the dependency status of the employee changes under procedures established by the Board. **(74-1309)**

Section 786.1. Coverage Extended to Age 25 for Some Dependents.

Any dependent shall be allowed to remain covered as a dependent under the State and Education Employees Group Insurance Act up to the age of twenty-five (25) years. **(74-1309.1)**

Section 787. Payment to Fund.

A. Except as provided in subsection B of this section, each state agency participating in the Group Insurance Plans shall appropriate and pay to the appropriate reserve fund an amount to be set by the State and Education Employees Group Insurance Board for each employee other than education employees per month enrolled in said Plans, from funds appropriated to said agency or from other funds available to such agency for operational purposes.

B. During the fiscal year ending June 30, 1997, each state agency participating in the Group Insurance Plans shall appropriate and pay to the State Employees Group Insurance Clearing fund an amount to be set by the State and Education Employees Group Insurance Board for each employee other than education employees per month enrolled in said Plans, from funds appropriated to said agency or from other funds available to such agency for operational purposes. **(74-1310)**

Section 788. Procedure for Payment.

A. If a certified employee elects health care coverage under a plan offered by a school district, including a plan offered by the State and Education Employees Group Insurance Board or a self-insured plan offered by the school district, then a school district shall pay for the fiscal year ending June 30, 2005, and each fiscal year thereafter, no less than one hundred percent (100%) of the premium amount for the HealthChoice (HI) option plan for an individual offered by the State and Education Employees Group Insurance Board.

The amount a school district is required to pay pursuant to this subsection shall be reduced by the flexible benefit allowance provided for in Section 26-105 of Title 70 of the Oklahoma Statutes.

B. The premium for education entities that participate in the health and dental insurance plans offered through the State and Education Employees Group Insurance Act shall be the same as paid by state agencies for said plans.

C. All education entities that participate in the insurance plans offered through the State and Education Employees Group Insurance Act shall forward the appropriate premiums for each employee to the Board no later than the tenth day of each month following the month for which payment is due. **(74-1310.1)**

> For the fiscal year ending June 30, 2003, school districts are required to pay 75% of the cost of health care coverage of certified employees, reduced by the flexible benefit allowance. Such obligation is not dependent upon the amount of funding the school district receives from the State Department of Education. *April 7, 2003 (AG Op. No. 03-15)*
>
> A school district may reduce the fifty percent amount it is obligated to pay of an employee's health care coverage by the amount of the flexible benefit allowance. *September 14, 2001 (AG Op. No. 01-37)*

Section 788.1. Payment for Alternative Insurance.

A school district shall pay fifty percent (50%) of the cost of the individual health care premium amount for school district employees who are not otherwise covered pursuant to Section 1310.1 of Title 74 of the Oklahoma Statutes or Section 26-105 of Title 70 of the Oklahoma Statutes, if such employee elects health care coverage under a plan offered by a school district, including a plan offered by the State and Education Employees Group Insurance Board or a self-insured plan offered by the school district. **(74-1310.2)**

Section 789. Payroll Deductions.

The amount of monthly contribution to be made by employees enrolled in the Group Insurance Plans shall be deducted from the monthly salaries of such employees and remitted to the Board. The procedure for such deductions and remittances shall be established by the Board. **(74-1311)**

Section 790. Deduction of Contributions from Monthly Disability Benefits.

The amount of monthly contribution to be made by persons who are drawing disability benefits under Section 1331 et seq. of Title 74 of the Oklahoma Statutes and who are enrolled in the Group Insurance Plans shall be deducted from the monthly disability benefits of such persons and remitted to the Board. The procedures for such deductions and remittances shall be established by the Board. **(74-1311.1)**

Section 791. Health and Dental Insurance Reserve Fund.

(1) Except as otherwise provided by law, all employee and employer contributions, appropriations and dividend payments related to the health and dental plans administered by the State and Education Employees Group Insurance Board shall be deposited in a fund in the State Treasury which is hereby created and which shall be known as the Health and Dental Insurance Reserve Fund. The money in such fund shall be invested by the Board in the manner specified in Section 1305.1 of this title. Investment income of the fund shall be added to the fund. Money payable to the claims administrator and all expenses in connection with the plans shall be paid from the fund. The board shall have responsibility for management of the fund.

(2) All monies in the Health and Dental Insurance Reserve Fund that are reserves for the life insurance plan administered by the State and Education Employees Group Insurance Board shall be transferred to the Life Insurance Reserve Fund on July 1, 1989. **(74-1312)**

Section 792. Revolving Fund.

There is hereby created in the State Treasury a Revolving Fund for the State and Education Employees Group Insurance Plan. The revolving fund shall consist of funds transferred from the Health and Dental Insurance Reserve Fund and the Life Insurance Reserve Fund for operational expenses of the State Health and Life Insurance Plan and monies assessed from or collected for and due a Health Maintenance Organization (HMO) as approved by the Board. Expenditures from said funds shall be made pursuant to the laws of the state and statutes relating to the Plan. This revolving fund shall be a continuing fund, not subject to fiscal year limitations, and shall be under the control and management of the State Education employees Group Insurance Board. **(74-1312.1)**

Section 793. Life Insurance Reserve Fund.

(1) There is hereby created in the State Treasury, the Life Insurance Reserve fund. Except as otherwise provided by law, all contributions, appropriations, transfers, dividend payments, and investment income of the fund received from or for the benefit of the life insurance plan administered by the State and Education Employees Group Insurance Board shall be deposited in the reserve fund.

The monies in said reserve fund shall be invested by the Board in the manner specified in Section 1305.1 of this title. The Board shall have responsibility for management of the fund.

Money payable to the claims administrator and all expenses in connection with the life insurance plan shall be paid from the reserve fund.

(2) All monies in the Life Insurance Reserve fund that are reserves for the health and dental plans administered by the State and Education Employees Group Insurance Board shall be transferred to the Health and Dental Insurance Reserve Fund on July 1, 1989. **(74-1312.2)**

Section 794. State Employees Group Insurance Clearing Fund.

There is hereby created in the State Treasury, the State Employees Group Insurance Clearing Fund. The monies paid to the State Employees Group Insurance Clearing Fund pursuant to Section 1310 of this title shall be distributed as follows:

1. The first Thirty-one Million five Hundred Thousand Dollars ($31,500,000.00) received after the effective date of this act during the fiscal year beginning July 1, 1996, shall be distributed to the Oklahoma State Regents for Higher Education; and

2. The balance thereof shall be distributed to and deposited in the appropriate reserve fund as directed by the State and Education Employees Group Insurance Board. **(74-1312.3)**

Section 795. Officers and Employees Exempt - Operations.

Except as provided in Section 483 of Title 40 of the Oklahoma Statutes, the provisions of the State and Education Employees Group Insurance Act, Section 1301 et seq. of this title, shall not apply to the employees and officers of The Oklahoma State System of Higher Education nor to the commissioners of the State Department of Transportation nor to any member of an administrative board or commission of any agency, board, authority or commission of the State of Oklahoma unless such member is a full-time salaried employee; provided, however, that any state system or institution of higher education may elect to come under the provisions of said act. **(74-1314)**

Section 796. Retired Person or Persons Electing Vested Benefits - Health Insurance Benefits - Dependents of Deceased Employees.

A. Any person who retires pursuant to the provisions of the Teachers' Retirement System of Oklahoma with at least ten (10) years of creditable service or who has a vested benefit with at least ten (10) years of creditable service, pursuant to the provisions of the Teachers' Retirement System of Oklahoma may continue in force the health and dental insurance benefits authorized by the provisions of the State and Education Employees Group Insurance Act if such election to continue in force or begin is made within thirty (30) days from the date of termination of service. Except as provided in subsection E of Sections 5-117.5 and 14-108.1 of Title 70 of the Oklahoma Statutes and Section 840-2.27I of this title and subsection K of this section, health and dental insurance coverage may not be reinstated at a later time if the election to continue in force or begin coverage is declined. Vested persons who have terminated service and are not receiving benefits and effective July 1, 1996, nonvested persons who have terminated service with more than ten (10) years of participating service with a qualifying employer, who within thirty (30) days from the date of termination of service, elect to continue such coverage, shall pay the full cost of said insurance premium at the rate and pursuant to the terms and conditions established by the Board.

B. 1. Health insurance benefit plans offered pursuant to this section shall include:

a. indemnity plans offered through the State and Education Employees Group Insurance Board,

b. managed care plans offered as alternatives to the indemnity plans,

c. Medicare supplements offered through the State and Education Employees Group Insurance Board,

d. Medicare risk-sharing contracts offered as alternatives to the Medicare supplements offered through the State and Education Employees Group Insurance Board, and

e. any other employer-provided health insurance benefit plans if the employer does not participate in the plans offered pursuant to the State and Education Employees Group Insurance Act.

2. Health insurance benefit plans offered pursuant to this section shall provide prescription drug benefits, except for plans designed pursuant to the Medicare Prescription Drug Improvement and Modernization Act of 2003, which may or may not contain prescription drug benefits, for which provision of prescription drug benefits is optional, and except for plans offered pursuant to subparagraph e of paragraph 1 of this subsection.

C. A retired person who:

1. Is receiving benefits from the Teachers' Retirement System of Oklahoma after September 30, 1988, is under sixty-five (65) years of age and is not otherwise eligible for Medicare and pursuant to subsection A of this section elects to begin or to continue the health insurance plan;

2. Is receiving benefits from the Teachers' Retirement System of Oklahoma after June 30, 1993, is under sixty-five (65) years of age and is not otherwise eligible for Medicare and participates in a health insurance plan provided by a participating education employer of the Teachers' Retirement System of Oklahoma other than a health insurance plan offered pursuant to the State and Education Employees Group Insurance Act or an alternative health plan offered pursuant to the Oklahoma State Employees Benefits Act;

3. Is receiving benefits from the Teachers' Retirement System of Oklahoma after September 30, 1988, made contributions to the system and is sixty-five (65) years of age or older, or who is under sixty-five (65) years of age and is eligible for Medicare and is a participant in the State and Education Employees Group Insurance Act and elects coverage under the Medicare supplement offered by the State and Education Employees Group Insurance Board; or

4. Is receiving benefits from the Teachers' Retirement System of Oklahoma after June 30, 1993, made contributions to the system and is sixty-five (65) years of age or older, or who is under sixty-five (65) years of age and is eligible for Medicare and participates in a health insurance plan provided by a participating education employer of the Teachers' Retirement System of Oklahoma other than a health insurance plan offered pursuant to the State and Education Employees Group Insurance Act or an alternative health plan offered pursuant to the Oklahoma State Employees Benefits Act and elects coverage under the Medicare supplement offered by the State and Education Employees Group Insurance Board, shall have the amount determined pursuant to subsection E of this section, or the premium rate of the health insurance benefit plan, whichever is less, paid by the Teachers' Retirement System of Oklahoma. If the amount paid by the Teachers' Retirement System of Oklahoma does not cover the full cost of the health insurance premium, the retired person shall pay the remaining amount if the retired person wants to continue the coverage.

D. The Teachers' Retirement System shall pay the amount due pursuant to the provisions of subsection C of this section as follows:

1. For those individuals participating in plans provided through the State and Education Employees Group Insurance Act, payment shall be made to the Board pursuant to the provisions of subsection I of this section; or

2. For those individuals participating in plans provided through a participating education employer of the Teachers' Retirement System of Oklahoma other than a health insurance plan offered pursuant to the State and Education Employees Group Insurance Act, payment shall be made to the education employer.

E. Beginning July 1, 2000, the maximum benefit payable by the Teachers' Retirement System of Oklahoma on behalf of a retired person toward said person's monthly premium for health insurance shall be determined in accordance with the following schedule:

AVERAGE SALARY USED FOR DETERMINING RETIREMENT ALLOWANCE	LESS THAN 15 YEARS OF CREDITABLE SERVICE	LESS THAN 25 YEARS BUT GREATER THAN 14.99 YEARS OF CREDITABLE SERVICE	GREATER THAN 24.99 YEARS OF CREDITABLE SERVICE
Less than $20,000.00	$103.00	$104.00	$105.00
Less than $30,000.00 but greater than $19,999.99	$102.00	$103.00	$104.00
Less than $40,000.00 but greater than $29,999.99	$101.00	$102.00	$103.00

$40,000.00 or greater	$100.00	$101.00	$102.00

For plans offered by the State and Education Employees Group Insurance Board, the amount paid pursuant to this subsection shall first be applied to the prescription drug coverage premium, if any. Any remaining amounts shall be applied towards the medical coverage premium.

F. If a person retires and begins to receive benefits from the Teachers' Retirement System of Oklahoma or terminates service and has a vested benefit with the Teachers' Retirement System of Oklahoma, the person may elect, in the manner provided in subsection A of this section, to participate in the dental insurance plan offered through the State and Education Employees Group Insurance Act. The person shall pay the full cost of the dental insurance.

G. Those persons who are receiving benefits from the Teachers' Retirement System of Oklahoma and have health insurance coverage which on the operative date of this section is being paid by the education entity from which the person retired shall make the election required in subsection A of this section within thirty (30) days of the termination of said health insurance coverage. The person making the election shall give the Board certified documentation satisfactory to the Board of the termination date of the other health insurance coverage.

H. Dependents of a deceased education employee who was on active work status or on a disability leave at the time of death or of a participating retirant or of any person who has elected to receive a vested benefit under the Teachers' Retirement System of Oklahoma may continue the health and dental insurance benefits in force provided said dependents pay the full cost of such insurance and they were covered as eligible dependents at the time of such death and such election is made within thirty (30) days of date of death. The eligibility for said benefits shall terminate for the surviving children when said children cease to qualify as dependents.

I. The amounts required to be paid by the Teachers' Retirement System of Oklahoma pursuant to this section shall be forwarded no later than the tenth day of each month following the month for which payment is due by the Board of Trustees of the Teachers' Retirement System of Oklahoma to the State and Education Employees Group Insurance Board for deposit in the Education Employees Group Insurance Reserve Fund.

J. The Teachers' Retirement System of Oklahoma shall provide the State and Education Employees Group Insurance Board information concerning the employers of retired and vested members necessary to allow the State and Education Employees Group Insurance Board to track eligibility for continued coverage.

K. Upon retirement from employment with the Board of Regents of the University of Oklahoma, any person who is or was employed at the George Nigh Rehabilitation Institute and who transferred employment pursuant to Section 3427 of Title 70 of the Oklahoma Statutes, any person who was employed at the Medical Technology and Research Authority and who transferred employment pursuant to Section 7068 of this title, and any person who is a member of the Oklahoma Law Enforcement Retirement System pursuant to the authority of Section 2-314 of Title 47 of the Oklahoma Statutes may participate in the benefits authorized by the provisions of the State and Education Employees Group Insurance Act for retired participants, including health, dental and life insurance benefits, if such election to participate is made within thirty (30) days from the date of termination of employment. Life insurance benefits for any such person who transferred employment shall not exceed the coverage the person had at the time of such transfer. Retirees who are persons transferred employment and who participate pursuant to this paragraph shall pay the premium for elected benefits less any amounts paid by the retirement system pursuant to this section. **(74-1316.3)**

Section 797. Maximum for Which Reemployed Ex-Employees May Be Insured.

No former employee who is reemployed by a participating entity within twenty-four (24) months after the date of termination of previous employment shall be enrolled in the State and Education Employees Group Insurance Plan authorized by Section 1301 et seq. of this title, for a greater amount of life insurance or life benefit than the amount for which the life of the ex-employee was insured under said plan at the date of termination of his employment, except upon his furnishing evidence of his insurability, satisfactory to the Board, and any greater amount of benefit or insurance provided him shall be at the employee's cost. **(74-1318)**

Section 798. Repealed.

Section 799. Employment Personnel Administrator, Legal Counsel, Actuaries and Other Consultants.

A. The State and Education Employees Group Insurance Board is authorized to hire and appoint an administrator who shall be in the unclassified service.

The Board may hire a director of internal audit and one attorney licensed to practice law in this state. The attorney hired by the Board shall have not less than five (5) years of experience in matters related to the insurance industry. The Board shall directly supervise the duties of the director of internal audit, and shall not delegate said supervision to the Administrator or any other employee of the Board. In addition to duties assigned by the Board, the director of internal audit is authorized to audit all records of health providers and pharmacists who enter into any contract with the Board in order to ensure compliance with said contract provisions.

B. The administrator shall employ such persons as are necessary to administer the provisions of the State and Education Employees Group Insurance Act, the State Employees Flexible Benefits Act and the State Employees Disability Program Act. The Administrator may employ a maximum of two (2) attorneys. The administrator or one of the deputy administrators shall have not less than seven (7) years of group health insurance administration experience on a senior managerial level.

C. The Board shall not contract for private legal counsel except for extraordinary situations other than normal day to day situations, and when approved by the Attorney General. The Board may contract with a nonemployee consulting actuary, a nonemployee medical consultant and a nonemployee dental consultant subject to competitive bid at least every three (3) years. The Board may contract with health care providers for a level of reimbursement for the payment of claims incurred by the plan participants. The Board may at its request use the services of any actuary employed by the Insurance Commissioner and may also seek the advice and counsel of the Commissioner of the State of Oklahoma or any employee of the Office of the Commissioner. **(74-1320)**

Section 800. Determination of Rates and Benefits.

A. The Board shall have the authority to determine all rates and life, dental and health benefits. All rates shall be compiled in a comprehensive Schedule of Benefits. The Schedule of Benefits shall be available for inspection during regular business hours at the office of the State and Education Employees Group Insurance Board. The Board shall have the authority to annually adjust the rates and benefits based on claim experience.

B. The premiums for such insurance plans offered for the next plan year shall be established as follows:

1. For active employees and their dependents, the Board's premium determination shall be made no later than the bid submission date for health maintenance organizations set by the Oklahoma State Employees Benefits Council, which shall be set in August no later than the third Friday of that month; and

2. For all other covered members and dependents, the Board's and the health maintenance organizations' premium determinations shall be no later than the fourth Friday of September.

C. The Board may approve a mid-year adjustment provided the need for an adjustment is substantiated by an actuarial determination or more current experience rating. The only publication or notice requirements that shall apply to the Schedule of Benefits shall be those requirements provided in the Oklahoma Open Meeting Act. It is the intent of the Legislature that the benefits provided not include cosmetic dental procedures except for certain orthodontic procedures as adopted by the Board. **(74-1321)**

Section 801. Confidentiality of Information - Inspection of Files.

All information, documents, medical reports and copies thereof contained in a member's insurance file shall be treated as confidential information and shall not be released or made available or open to public inspection without the prior written consent and authorization of the individual to whom it pertains, but shall be subject to subpoena or court order. **(74-1322)**

Section 802. Fraud - Penalties.

Any person who shall knowingly make any false statement, or who shall falsify or permit to be falsified any record necessary for carrying out the intent of the State and Education Employees Group Insurance Act, Section 1301 et seq. of this title, for the purpose of committing fraud, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding Five Thousand Dollars ($5,000.00) or by imprisonment for not exceeding one (1) year or by both the fine and imprisonment. The State and Education Employees Group Insurance Board shall have the right to audit participating employer groups to verify eligibility for any member and/or dependent and may require proof of eligibility upon demand. **(74-1323)**

Section 802.1. Claims Prior to Sentencing.

No health benefit plan, including, but not limited to, the State and Education Employees Group Health Insurance Plan, that is offered, issued or renewed in the state on or after January 1, 2009, shall exclude otherwise allowable claims which occur in conjunction with the arrest or pretrial detention of the policyholder prior to adjudication of guilt and sentencing to incarceration of such policyholder. The reimbursement rate for out-of-network claims for these services shall be set at the current Medicare rate. **(36-6060.4a)**

Section 803. Age and Schooling Certificates - Approval - Proof of Age - Determination of Physical Fitness - Execution of Certificate.

The age and schooling certificate shall be approved by the principal, headmaster, or equivalent administrative officer of the school which the child attends or should be attending or by one of the child's parents if the child is being schooled at home, who shall, for the purpose of this article, be empowered to administer an oath. The principal, headmaster, or equivalent administrative officer of the school which the child attends or should be attending or by one of the child's parents if the child is being schooled at home, shall approve such certificate only upon the application in person of the child desiring employment accompanied by its parents, guardian or custodian, and after having received, examined and approved documentary evidence of age, showing that the child is fourteen (14) years of age, or over, which evidence shall consist of one of the following named proofs of age, duly attested, and the proof accepted shall be specified in the certificate issued to the child; the proof specified in subdivision (a) shall be required first, but if this is not available then one of the proofs specified in the succeeding subdivisions shall be required and in the order designated until the age of the child be established, as follows:

(a) A birth certificate or transcript thereof issued by a registrar of vital statistics or other officer charged with the duty of recording births which certificate or transcript thereof shall be prima facie evidence of the age of the child.

(b) A certificate of baptism or transcript thereof, showing the date of birth and place of baptism of the child.

(c) A passport showing the age of the child; or a certificate of arrival in the United States, issued by the United States immigration officer and showing the age of the child; or a life insurance policy at least one (1) year old showing the age of the child or other credible evidence as may be approved by the Commissioner.

Every employment certificate shall be signed, in the presence of the officer issuing the same by the child in whose name it is issued. **(40-79)**

Section 803.1. Vision Screening.

A. 1. The parent or guardian of each student enrolled in kindergarten at a public school in this state shall provide certification to school personnel that the student passed a vision screening within the previous twelve (12) months or during the school year. Such screening shall be conducted by personnel listed on the statewide registry as maintained by the State Department of Health.

2. The parent or guardian of each student enrolled in first or third grade at a public school in this state shall provide within thirty (30) days of the beginning of the school year certification to school personnel that the student passed a vision screening within the previous twelve (12) months. Such screening shall be conducted by personnel listed on the statewide registry as maintained by the State Department of Health.

3. The parent or guardian of each student who receives a vision screening as required by this section shall receive notification that a vision screening is not the equivalent of a comprehensive eye exam.

B. 1. The State Department of Health shall form an advisory committee comprised of:

a. one licensed Oklahoma optometrist,

b. one licensed Oklahoma ophthalmologist,

c. the State Commissioner of Health, or designee,

d. the State Superintendent of Public Instruction, or designee, and

e. one representative of a statewide organization for the prevention of blindness.

2. The advisory committee shall make recommendations to the State Board of Health on:

a. standards for vision screening and referral,

b. qualifications for initial recognition and renewal of recognition of vision screeners,

c. qualifications for initial recognition and renewal of recognition of vision screener trainers,

d. qualifications for initial recognition and renewal of recognition of trainers of vision screener trainers, and

e. grounds for denial, refusal, suspension or revocation of recognition of vision screeners, vision screener trainers and trainers of vision screener trainers.

3. The advisory committee shall provide to the Department a list of:

a. qualified vision screeners,

b. qualified vision screener trainers, and

c. qualified trainers of vision screener trainers which are recognized by another state or national entity involved with vision screening with substantially similar published standards and qualifications.

4. The Department shall:

a. establish and thereafter maintain a statewide registry, available via the Internet, which shall contain a list of approved vision screeners,

b. maintain a list of approved vision screener trainers and trainers of vision screener trainers, and

c. maintain the standards for vision screening and referral.

5. After notice and hearing, the Department may deny, refuse, suspend or revoke approval to an applicant which has a history of:

a. noncompliance or incomplete or partial compliance with the provisions of this section or the rules adopted by the Board to implement the provisions of this section,

b. referring persons to a business in which the applicant has a financial interest or a business which is owned or operated by someone within the third degree of consanguinity or affinity of the applicant, or

c. conduct which demonstrates that the applicant is providing services in a manner which does not warrant public trust.

6. The advisory committee may make recommendations to the Board for establishing a requirement for background checks and provide a listing of offenses that disqualify a vision screener, vision screener trainer or trainer of vision screener trainers for recognition pursuant to this section.

7. The advisory committee may also serve as a sports eye-safety resource for Oklahoma K-12 public school districts and nonprofit community sports organizations by developing and providing educational materials to the school districts and organizations which detail the risk of eye injuries associated with different types of sports and the availability of protective eyewear that reduces the risk of eye injuries due to sports.

8. The Board shall promulgate rules to implement the provisions of this section.

C. 1. The parent or guardian of each student who fails the vision screening required in subsection A of this section shall receive a recommendation to undergo a comprehensive eye examination performed by an ophthalmologist or optometrist.

2. The ophthalmologist or optometrist shall forward a written report of the results of the comprehensive eye examination to the student's school, parent or guardian, and primary health care provider designated by the parent or guardian. The report shall include, but not be limited to:

a. date of report,

b. name, address and date of birth of the student,

c. name of the student's school,

d. type of examination,

e. a summary of significant findings, including diagnoses, medication used, duration of action of medication, treatment, prognosis, whether or not a return visit is recommended and, if so when,

f. recommended educational adjustments for the child, if any, which may include: preferential seating in the classroom, eyeglasses for full-time use in school, eyeglasses for part-time use in school, sight-saving eyeglasses, and any other recommendations, and

g. name, address and signature of the examiner;

D. No student shall be prohibited from attending school for a parent's or guardian's failure to furnish a report of the student's vision screening or an examiner's failure to furnish the results of a student's comprehensive eye examination required by this section.

E. School districts shall notify parents or guardians of students who enroll in kindergarten, first, or third grade for the 2007-08 school year and each year thereafter of the requirements of this section.

F. The State Board of Education shall adopt rules for the implementation of this section except as provided in subsection B of this section. The State Department of Education shall issue a report annually on the impact and effectiveness of this section. **(70-1210.284)**

Section 804. Sodomy.

Any person who is guilty of the detestable and abominable crime against nature, committed with mankind or with a beast, shall be guilty of a felony punishable by imprisonment in the State Penitentiary for a period of not more than twenty (20) years. Any person convicted of a second violation of this section, where the victim of the second offense is a person under sixteen (16) years of age, shall not be eligible for probation, suspended or deferred sentence. Any person convicted of a third or subsequent violation of this section, where the victim of the third or subsequent offense

is a person under sixteen (16) years of age, shall be punished by imprisonment in the State Penitentiary for a term of life or life without parole, in the discretion of the jury, or in case the jury fails or refuses to fix punishment then the same shall be pronounced by the court. **(21-886)**

Section 805. Forcible Sodomy.

A. Any person who forces another person to engage in the detestable and abominable crime against nature, pursuant to Section 886 of this title, upon conviction, is guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a period of not more than twenty (20) years. Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of this subsection shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment. Any person convicted of a second violation of this section, where the victim of the second offense is a person under sixteen (16) years of age, shall not be eligible for probation, suspended or deferred sentence. Any person convicted of a third or subsequent violation of this section, where the victim of the third or subsequent offense is a person under sixteen (16) years of age, shall be punished by imprisonment in the custody of the Department of Corrections for a term of life or life without parole, in the discretion of the jury, or in case the jury fails or refuses to fix punishment then the same shall be pronounced by the court. Any person convicted of a violation of this subsection after having been twice convicted of a violation of subsection A of Section 1114 of this title, a violation of Section 1123 of this title or sexual abuse of a child pursuant to Section 843.5 of this title, or of any attempt to commit any of these offenses or any combination of said offenses, shall be punished by imprisonment in the custody of the Department of Corrections for a term of life or life without parole.

B. The crime of forcible sodomy shall include:

1. Sodomy committed by a person over eighteen (18) years of age upon a person under sixteen (16) years of age; or

2. Sodomy committed upon a person incapable through mental illness or any unsoundness of mind of giving legal consent regardless of the age of the person committing the crime; or

3. Sodomy accomplished with any person by means of force, violence, or threats of force or violence accompanied by apparent power of execution regardless of the age of the victim or the person committing the crime; or

4. Sodomy committed by a state, county, municipal or political subdivision employee or a contractor or an employee of a contractor of the state, a county, a municipality or political subdivision of this state upon a person who is under the legal custody, supervision or authority of a state agency, a county, a municipality or a political subdivision of this state; or

5. Sodomy committed upon a person who is at least sixteen (16) years of age but less than twenty (20) years of age and is a student of any public or private secondary school, junior high or high school, or public vocational school, with a person who is eighteen (18) years of age or older and is employed by the same school system. **(21-888)**

Section 806. Child Molestation - Sexual Battery. Section 806. Child Molestation - Sexual Battery.

A. It is a felony for any person to knowingly and intentionally:

1. Make any oral, written or electronically or computer-generated lewd or indecent proposal to any child under sixteen (16) years of age, or other individual the person believes to be a child under sixteen (16) years of age, for the child to have unlawful sexual relations or sexual intercourse with any person; or

2. Look upon, touch, maul, or feel the body or private parts of any child under sixteen (16) years of age in any lewd or lascivious manner by any acts against public decency and morality, as defined by law; or

3. Ask, invite, entice, or persuade any child under sixteen (16) years of age, or other individual the person believes to be a child under sixteen (16) years of age, to go alone with any person to a secluded, remote, or secret place, with the unlawful and willful intent and purpose then and there to commit any crime against public decency and morality, as defined by law, with the child; or

4. In any manner lewdly or lasciviously look upon, touch, maul, or feel the body or private parts of any child under sixteen (16) years of age in any indecent manner or in any manner relating to sexual matters or sexual interest; or

5. In a lewd and lascivious manner and for the purpose of sexual gratification:

a. urinate or defecate upon a child under sixteen (16) years of age,

b. ejaculate upon or in the presence of a child,

c. cause, expose, force or require a child to look upon the body or private parts of another person,

d. force or require any child under sixteen (16) years of age or other individual the person believes to be a child under sixteen (16) years of age, to view any obscene materials, child pornography or materials deemed harmful to minors as such terms are defined by Sections 1024.1 and 1040.75 of this title,

e. cause, expose, force or require a child to look upon sexual acts performed in the presence of the child, or

f. force or require a child to touch or feel the body or private parts of said child or another person.

Any person convicted of any violation of this subsection shall be punished by imprisonment in the custody of the Department of Corrections for not less than three (3) years nor more than twenty (20) years, except when the child is under twelve (12) years of age at the time the offense is committed, and in such case the person shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections for not less than twenty-five (25) years. The provisions of this subsection shall not apply unless the accused is at least three (3) years older than the victim, except when accomplished by the use of force or fear. Any person convicted of a second or subsequent violation of this subsection shall be guilty of a felony punishable as provided in this subsection and shall not be eligible for probation, suspended or deferred sentence. Any person convicted of a third or subsequent violation of this subsection shall be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a term of life or life without parole, in the discretion of the jury, or in case the jury fails or refuses to fix punishment then the same shall be pronounced by the court. Any person convicted of a violation of this subsection after having been twice convicted of a violation of subsection A of Section 1114 of this title, Section 888 of this title, sexual abuse of a child pursuant to Section 843.5 of this title, or of any attempt to commit any of these offenses or any combination of convictions pursuant to these sections shall be punished by imprisonment in the custody of the Department of Corrections for a term of life or life without parole.

B. No person shall commit sexual battery on any other person. "Sexual battery" shall mean the intentional touching, mauling or feeling of the body or private parts of any person sixteen (16) years of age or older, in a lewd and lascivious manner:

1. Without the consent of that person;

2. When committed by a state, county, municipal or political subdivision employee or a contractor or an employee of a contractor of the state, a county, a municipality or political subdivision of this state upon a person who is under the legal custody, supervision or authority of a state agency, a county, a municipality or a political subdivision of this state; or

3. When committed upon a person who is at least sixteen (16) years of age and is less than twenty (20) years of age and is a student, or in the legal custody or supervision of any public or private elementary or secondary school, or technology center school, by a person who is eighteen (18) years of age or older and is an employee of the same school system that the victim attends.

As used in this subsection, "employee of the same school system" means a teacher, principal or other duly appointed person employed by a school system or an employee of a firm contracting with a school system who exercises authority over the victim.

C. No person shall in any manner lewdly or lasciviously:

1. Look upon, touch, maul, or feel the body or private parts of any human corpse in any indecent manner relating to sexual matters or sexual interest; or

2. Urinate, defecate or ejaculate upon any human corpse.

D. Any person convicted of a violation of subsection B or C of this section shall be deemed guilty of a felony and shall be punished by imprisonment in the custody of the Department of Corrections for not more than ten (10) years.

E. The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense pursuant to this section shall not constitute a defense to a prosecution under this section.

F. Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of this section shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment. **(21-1123)**

Section 807. Rape by School Employee.

A. Rape is an act of sexual intercourse involving vaginal or anal penetration accomplished with a male or female who is not the spouse of the perpetrator and who may be of the same or the opposite sex as the perpetrator under any of the following circumstances:

* * * * *

8. Where the victim is at least sixteen (16) years of age and is less than eighteen (18) years of age and is a student, or under the legal custody or supervision of any public or private elementary or secondary school, junior high or high school, or public vocational school, and engages in sexual intercourse with a person who is eighteen (18) years of age or older and is an employee of the same school system. * * * * * **(21-1111)**

Section 807.1. School Safety Zone.

A. A zone of safety is hereby created around elementary, junior high and high schools, permitted or licensed child care centers as defined by the Department of Human Services, playgrounds, and parks. A person is prohibited from loitering within five hundred (500) feet of any elementary, junior high or high school, permitted or licensed child care center, playground, or park if the person has been convicted of a crime that requires the person to register pursuant to the Sex Offenders Registration Act or the person has been convicted of an offense in another jurisdiction, which offense if committed or attempted in this state, would have been punishable as one or more of the offenses listed in Section 582 of Title 57 of the Oklahoma Statutes and the victim was a child under the age of thirteen (13) years.

B. A person convicted of a violation of subsection A of this section shall be guilty of a felony punishable by a fine not exceeding Two Thousand Five Hundred Dollars ($2,500.00), or by imprisonment in the county jail for a term of not more than one (1) year, or by both such fine and imprisonment. Any person convicted of a second or subsequent violation of subsection A of this section shall be punished by a fine not exceeding Two Thousand Five Hundred Dollars ($2,500.00), or by imprisonment in the custody of the Department of Corrections for a term of not less than three (3) years, or by both such fine and imprisonment. This proscription of conduct shall not modify or remove any restrictions currently applicable to the person by court order, conditions of probation or as provided by other provision of law.

C. 1. A person shall be exempt from the prohibition of this section regarding a school or a licensed or permitted child care facility only under the following circumstances and limited to a reasonable amount of time to complete such tasks:

a. the person is the custodial parent or legal guardian of a child who is an enrolled student at the school or child care facility, and

b. the person is enrolling, delivering or retrieving such child at the school or licensed or permitted child care center during regular school or facility hours or for school-sanctioned or licensed-or-permitted-child-care-center-sanctioned extracurricular activities.

Prior to entering the zone of safety for the purposes listed in this paragraph, the person shall inform school or child care center administrators of his or her status as a registered sex offender. The person shall update monthly, or as often as required by the school or center, information about the specific times the person will be within the zone of safety as established by this section.

2. This exception shall not be construed to modify or remove any restrictions applicable to the person by court order, conditions of probation, or as provided by other provision of law.

D. The provisions of subsection A of this section shall not apply to any person receiving medical treatment at a hospital or other facility certified or licensed by the State of Oklahoma to provide medical services. As used in this subsection, "medical treatment" shall not include any form of psychological, social or rehabilitative counseling services or treatment programs for sex offenders.

E. Nothing in this section shall prohibit a person, who is registered as a sex offender pursuant to the Sex Offenders Registration Act, from attending a recognized church or religious denomination for worship; provided, the person has notified the religious leader of his or her status as a registered sex offender and the person has been granted written permission by the religious leader.

F. For purpose of prosecution of any violation of this section, the provisions of Section 51.1 of this title shall not apply. **(21-1125)**

A person subject to the Sex Offender Registration Act, whose victim was under the age of 13, and who is the custodial parent or legal guardian of a child enrolled at a school is prohibited from attending school sponsored activities on school property. Such a parent may only enroll, deliver or retrieve their child at the school or educational facility during regular school or facility hours or for school-sanctioned or child-care-facility-sanctioned extracurricular activities. *(AG Op. No. 08-24)*

It is a crime for a person convicted of certain sex offenses against children to be within 300 feet of an elementary or junior high school, day care facility, or playground except when specifically permitted to do so by stature. *October 10, 2005 (AG Op. No. 05-36)*

Section 808. Ordinary Force for Discipline of Children Permitted.

Provided, however, that nothing contained in this act shall prohibit any parent, teacher or other person from using ordinary force as a means of discipline, including but not limited to spanking, switching or paddling. **(21-844)**

Court considered statutes authorizing teachers to use reasonable force in disciplining children when it directed reinstatement of a teacher who was dismissed for slapping a child. *Hagen v. Ind. School Dist. No. I-04,* 2007 OK 19

A person need not inflict serious or life threatening injury in order to be convicted of child abuse. However, this does not apply to a parent or other person in those situations involving ordinary force as a means of discipline. *Mitchell v. State*, 2005 OK CR 15,120 P.3d 1196

Determining reasonableness of punishment includes student's age, sex, physical and mental condition, nature and motive of offense, whether force was degrading, and likelihood of permanent harm upon student. *Holman v. Wheeler*, 677 P.2d 645 (Okla. 1983)

Section 809. Segregation in Schools Prohibited.

Segregation of children in the public schools of the State of Oklahoma on account of race, creed, color or national origin is prohibited. **(70-1210.201)**

Section 810. Assignment of Pupils to Nearest School.

Insofar as practicable, each pupil shall be assigned to the school nearest his residence. **(70-1210.203)**

Section 810.1. Placement of Multiple Birth Siblings.

A. A parent or guardian of multiple-birth siblings may request that the children attend the same school and be placed in the same classroom or in separate classrooms if the children are in the same grade level at the same school and meet the eligibility requirements of the class. The school may recommend classroom placement to the parents and provide professional education advice to the parents to assist them in making the best decision for their children's education. A school must provide the placement requested by the children's parent or guardian, unless the district board makes a classroom placement determination following the school principal's request according to this section. The parent or guardian must request the classroom placement no later than fourteen (14) days after the first day of each school year or fourteen (14) days after the first day of attendance of the children during a school year if the children are enrolled in the school after the school year commences. At the end of the initial grading period, if the school principal, in consultation with the children's classroom teacher, determines that the requested classroom placement is disruptive to the classroom environment, the school principal may request that the district board determine the children's classroom placement.

B. For purposes of this section, "multiple-birth siblings" means twins, triplets, quadruplets, quintuplets, or higher number of siblings resulting from a multiple birth. **(70-24-154)**

Section 810.2. Interstate Compact on Educational Opportunity for Military Children.

The Interstate Compact on Educational Opportunity for Military Children is hereby enacted into law and entered into with all jurisdictions legally joining therein, in the form substantially as follows:

INTERSTATE COMPACT ON EDUCATIONAL
OPPORTUNITY FOR MILITARY CHILDREN

ARTICLE I. PURPOSE

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

1. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district(s) or variations in entrance/age requirements;

2. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content or assessment;

3. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities;

4. Facilitating the on-time graduation of children of military families;

5. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact;

6. Providing for the uniform collection and sharing of information between and among member states, schools and military families under this compact;

7. Promoting coordination between this compact and other compacts affecting military children; and

8. Promoting flexibility and cooperation between the educational system, parents and the student in order to achieve educational success for the student.

ARTICLE II. DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

1. "Active duty" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Military Reserve on active duty orders pursuant to 10 U.S.C., Sections 1209 and 1211;

2. "Children of military families" means a school-aged child(ren), enrolled in Kindergarten through Twelfth grade, in the household of an active duty member;

3. "Compact commissioner" means the voting representative of each compacting state appointed pursuant to Article VIII of this Compact;

4. "Deployment" means the period one (1) month prior to the service members' departure from their home station on military orders though six (6) months after return to their home station;

5. "Education(al) records" means those official records, files, and data directly related to a student and maintained by the school or local education agency including, but not limited to, records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs;

6. "Extracurricular activities" means a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities;

7. "Interstate Commission on Educational Opportunity for Military Children" means the commission that is created under Article IX of this compact, which is generally referred to as Interstate Commission;

8. "Local education agency" means a public authority legally constituted by the state as an administrative agency to provide control of and direction for Kindergarten through Twelfth grade public educational institutions;

9. "Member state" means a state that has enacted this compact;

10. "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Mariana Islands and any other U.S. Territory. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects;

11. "Nonmember state" means a state that has not enacted this compact;

12. "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought;

13. "Rule" means a written statement by the Interstate Commission promulgated pursuant to Article XII of this compact that is of general applicability, implements, interprets or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of administrative rules in a member state, and includes the amendment, repeal, or suspension of an existing rule;

14. "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought;

15. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Mariana Islands and any other U.S. Territory;

16. "Student" means the child of a military family for whom the local education agency receives public funding and who is formally enrolled in Kindergarten through Twelfth grade;

17. "Transition" means:

a. the formal and physical process of transferring from school to school, or

b. the period of time in which a student moves from one school in the sending state to another school in the receiving state;

18. "Uniformed service(s)" means the Army, Navy, Air Force, Marine Corps, Coast Guard as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services; and

19. "Veteran" means a person who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

ARTICLE III. APPLICABILITY

A. Except as otherwise provided in subsection B of this article, this compact shall apply to the children of:

1. Active duty members of the uniformed services as defined in this compact, including members of the National Guard and Military Reserve on active duty orders pursuant to 10 U.S.C., Sections 1209 and 1211;

2. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one (1) year after medical discharge or retirement; and

3. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one (1) year after death.

B. The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.

C. The provisions of this compact shall not apply to the children of:

1. Inactive members of the National Guard and Military Reserves;

2. Members of the uniformed services now retired, except as provided in subsection A of this article;

3. Veterans of the uniformed services, except as provided in subsection A of this article; and

4. Other United States Department of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

ARTICLE IV. EDUCATIONAL RECORDS AND ENROLLMENT

A. Unofficial or "hand-carried" education records – In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

B. Official education records/transcripts - Simultaneously with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within ten (10) days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

C. Immunizations – Compacting states shall give thirty (30) days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Interstate Commission, for students to obtain any immunization(s) required by the receiving state. For a series of immunizations, initial vaccinations must be obtained

within thirty (30) days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

D. Kindergarten and First grade entrance age – Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level (including Kindergarten) from a local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from an accredited school in the sending state.

ARTICLE V. PLACEMENT AND ATTENDANCE

A. Course placement - When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes, but is not limited to, Honors, International Baccalaureate, Advanced Placement, vocational, technical and career pathway courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course(s).

B. Educational program placement – The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation/placement in like programs in the sending state. Such programs shall include, but are not limited to:

1. Gifted and talented programs; and

2. English as a second language (ESL).

This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

C. Special education services.

1. In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C.A., Section 1400 et seq., the receiving state shall initially provide comparable services to a student with disabilities based on his/her current individualized education program (IEP).

2. In compliance with the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C.A., Section 794, and with Title II of the Americans with Disabilities Act, 42 U.S.C.A., Sections 12131 through 12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide the student with equal access to education.

This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

D. Placement flexibility – Local education agency administrative officials shall have flexibility in waiving course/program prerequisites, or other preconditions for placement in courses/programs offered under the jurisdiction of the local education agency.

E. Absence as related to deployment activities – A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.

ARTICLE VI. ELIGIBILITY

A. Eligibility for enrollment.

1. Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

2. A local education agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.

3. A transitioning military child, placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which he/she was enrolled while residing with the custodial parent.

B. Eligibility for extracurricular participation - State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

ARTICLE VII. GRADUATION

A. In order to facilitate the on-time graduation of children of military families, states and local education agencies shall incorporate the following procedures:

1. Waiver requirements – Local education agency administrative officials shall waive specific courses required for graduation if similar course work has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

2. Exit exams - States shall accept:

a. exit or end-of-course exams required for graduation from the sending state,

b. national norm-referenced achievement tests, or

c. alternative testing in lieu of testing requirements for graduation in the receiving state.

In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in his or her Senior year, then the provisions of subsection B of this article shall apply.

B. Transfers during Senior year – Should a military student transferring at the beginning or during his or her Senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with subsection A of this article and this subsection.

ARTICLE VIII. STATE COORDINATION

A. Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies and military installations concerning the state's participation in, and compliance with, this compact and Interstate Commission activities. While each member state may determine the membership of its own State Council, its membership must include at least:

1. The State Superintendent of Public Instruction;

2. The superintendent of a school district with a high concentration of military children;

3. A representative from a military installation;

4. One representative each from the legislative and executive branches of government; and

5. Other offices and stakeholder groups the State Council deems appropriate.

B. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the State Council.

C. The State Council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

D. The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed by the Governor or as otherwise determined by each member state.

E. The compact commissioner and the military family education liaison designated herein shall be ex officio members of the State Council, unless either is already a full voting member of the State Council.

ARTICLE IX. INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

The member states hereby create the "Interstate Commission on Educational Opportunity for Military Children". The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

1. Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective Legislatures of the member states in accordance with the terms of this compact;

2. Consist of one Interstate Commission voting representative from each member state who shall be that state's compact commissioner.

a. Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

b. A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

c. A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or State Council may delegate voting authority to another person from their state for a specified meeting.

d. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication;

3. Consist of ex officio, nonvoting representatives who are members of interested organizations. Such ex officio members, as defined in the bylaws, may include, but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the United States Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel and other interstate compacts affecting the education of children of military members;

4. Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings;

5. Establish an executive committee, whose members shall include the officers of the Interstate Commission and such other members of the Interstate Commission as determined by the bylaws. Members of the executive committee shall serve one-year terms. Members of the executive committee shall be entitled to one vote each. The executive

committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as deemed necessary. The United States Department of Defense shall serve as an ex officio, nonvoting member of the executive committee;

6. Establish bylaws and rules that provide for conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests;

7. Public notice shall be given by the Interstate Commission of all meetings, and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds (2/3) vote that an open meeting would be likely to:

a. relate solely to the Interstate Commission's internal personnel practices and procedures,

b. disclose matters specifically exempted from disclosure by federal and state statute,

c. disclose trade secrets or commercial or financial information which is privileged or confidential,

d. involve accusing a person of a crime, or formally censuring a person,

e. disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy,

f. disclose investigative records compiled for law enforcement purposes, or

g. specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding;

8. For a meeting, or portion of a meeting, closed pursuant to this provision, the Interstate Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemptible provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission;

9. The Interstate Commission shall collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. Such methods of data collection, exchange and reporting shall, insofar as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules; and

10. The Interstate Commission shall create a process that permits military officials, education officials and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This section shall not be construed to create a private right of action against the Interstate Commission or any member state.

ARTICLE X. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

1. To provide for dispute resolution among member states;

2. To promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this compact. The rules shall have the force and effect of administrative rules and shall be binding in the compact states to the extent and in the manner provided in this compact;

3. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules and actions;

4. To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means including, but not limited to, the use of judicial process;

5. To establish and maintain offices which shall be located within one or more of the member states;

6. To purchase and maintain insurance and bonds;

7. To borrow, accept, hire or contract for services of personnel;

8. To establish and appoint committees including, but not limited to, an executive committee as required by paragraph 5 of Article IX, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder;

9. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel;

10. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it;

11. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed;

12. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed;

13. To establish a budget and make expenditures;

14. To adopt a seal and bylaws governing the management and operation of the Interstate Commission;

15. To report annually to the Legislatures, Governors, judiciary, and State Councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission;

16. To coordinate education, training and public awareness regarding the compact, its implementation and operation for officials and parents involved in such activity;

17. To establish uniform standards for the reporting, collecting and exchanging of data;

18. To maintain corporate books and records in accordance with the bylaws;

19. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact; and

20. To provide for the uniform collection and sharing of information between and among member states, schools and military families under this compact.

ARTICLE XI. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall, by a majority of the members present and voting, within twelve (12) months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact including, but not limited to:

1. Establishing the fiscal year of the Interstate Commission;

2. Establishing an executive committee and such other committees as may be necessary;

3. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;

4. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission and ensuring reasonable notice of each such meeting;

5. Establishing the titles and responsibilities of the officers and staff of the Interstate Commission;

6. Providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations; and

7. Providing "start-up" rules for initial administration of the compact.

B. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.

C. Executive committee, officers, and personnel.

1. The executive committee shall have such authority and duties as may be set forth in the bylaws including, but not limited to:

a. managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission,

b. overseeing an organizational structure within, and appropriate procedures for the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions, and

c. planning, implementing, and coordinating communications and activities with other state, federal and local government organizations in order to advance the goals of the Interstate Commission.

2. The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a member of the Interstate Commission. The executive director shall hire and supervise such other persons as may be authorized by the Interstate Commission.

D. 1. The Interstate Commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties,

or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

2. The liability of the Interstate Commission's executive director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

3. The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities; provided, that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

4. To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities; provided, that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE XII. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this act, or the powers granted hereunder, then such an action by the Interstate Commission shall be invalid and have no force or effect.

B. Rules shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act" of 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.

C. Not later than thirty (30) days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided, that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.

D. If a majority of the Legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

ARTICLE XIII. OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

A. Oversight.

1. The executive, legislative and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as administrative rules.

2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the Interstate Commission.

3. The Interstate Commission shall be entitled to receive all service of process in any such proceeding and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this compact or promulgated rules.

B. Default, technical assistance, suspension and termination.

If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate Commission shall:

1. Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default;

2. Provide remedial training and specific technical assistance regarding the default;

3. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default;

4. Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting state's Legislature, and each of the member states;

5. The state which has been suspended or terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of suspension or termination including obligations, the performance of which extends beyond the effective date of suspension or termination;

6. The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state; and

7. The defaulting state may appeal the action of the Interstate Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney fees.

C. Dispute resolution.

1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and nonmember states.

2. The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement.

1. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices, to enforce compliance with the provisions of the compact, its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief

and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney fees.

3. The remedies herein shall not be the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or the regulation of a profession.

ARTICLE XIV. FINANCING OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE XV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than ten of the states. The effective date shall be no earlier than December 1, 2007. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XVI. WITHDRAWAL AND DISSOLUTION

A. Withdrawal.

1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided, that a member state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until one (1) year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other member jurisdiction.

3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt thereof.

4. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extends beyond the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

B. Dissolution of compact.

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVII. SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable and, if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

ARTICLE XVIII. BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other laws.

1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

2. All member states' laws conflicting with this compact are superseded to the extent of the conflict.

B. Binding effect of the compact.

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the constitutional limits imposed on the Legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state. **(70-510.1)**

Section 810.3. Oklahoma Council for Educational Opportunity for Military Children.

A. There is hereby created the Oklahoma State Council for Educational Opportunity for Military Children in accordance with Article VIII of the Interstate Compact on Educational Opportunity for Military Children. The Council shall consist of:

1. The compact commissioner, as provided for in subsection G of this section;

2. The military family education liaison who shall be a nonvoting member, as provided for in subsection G of this section;

3. The State Superintendent of Public Instruction or a designee; and

4. Five appointed members as follows:

a. one member of the Senate, who shall serve an initial term of three (3) years, who shall be appointed by the President Pro Tempore of the Senate,

b. one member of the House of Representatives, who shall serve an initial term of three (3) years, who shall be appointed by the Speaker of the House of Representatives,

c. one superintendent of a school district with a high concentration of military children, who shall serve an initial term of two (2) years, who shall be appointed by the Speaker of the House of Representatives,

d. a representative of a military installation located in this state, who shall serve an initial term of two (2) years, who shall be appointed by the President Pro Tempore of the Senate, and

e. a member of the State Board of Education, who shall serve an initial term of one (1) year, who shall be appointed by the Governor.

B. Except for the initial appointments, appointed members shall be appointed for three-year terms. The members appointed to initial terms shall serve staggered terms as prescribed in this section. Terms of office shall expire on June 30. Members may be reappointed as deemed appropriate by the appointing authority. Members may be removed by the appointing authority for incompetence, willful neglect of duty, corruption in office, or malfeasance in office. Vacancies shall be filled in the same manner as the original appointment. The members of the Council shall not be subject to the dual-office-holding prohibitions set forth in Section 6 of Title 51 of the Oklahoma Statutes.

C. Appointments to the Council shall be made by September 1, 2008. The State Superintendent of Public Instruction shall convene the first meeting of the Council. The members of the Council shall elect from their membership a chair and vice-chair to serve for one-year terms. A majority of the members shall constitute a quorum for the purpose of conducting the business of the Council. The Council shall meet at least annually and at the call of the chair.

D. The Council shall comply with the Oklahoma Open Meeting Act and the Oklahoma Open Records Act.

E. Members of the Council shall receive no compensation for serving on the Council, but shall receive travel reimbursement as follows:

1. Legislative members of the Council shall be reimbursed for necessary travel expenses incurred in the performance of their duties in accordance with the provisions of Section 456 of Title 74 of the Oklahoma Statutes; and

2. Nonlegislative members of the Council shall be reimbursed by the State Department of Education for necessary travel expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.

F. The Council shall provide for the coordination among this state's governmental agencies, school districts and military installations concerning the state's participation in, and compliance with, the compact and Interstate Commission on Educational Opportunity for Military Children activities. The State Department of Education shall provide administrative services and staff support to the Council. The State Board of Education may promulgate rules to implement operations and procedures necessary for administration of the compact upon recommendation of the Council.

G. 1. Before September 1, 2008, the Governor shall appoint the compact commissioner who shall serve at the pleasure of the Governor. The compact commissioner shall serve as this state's commissioner on the Interstate Commission on Educational Opportunity for Military Children. In the event the compact commissioner cannot attend a meeting of the Interstate Commission, the Council shall appoint a Council member to represent this state at the meeting. The compact commissioner shall be responsible for the administration and management of the state's participation in the compact.

2. The State Superintendent of Public Instruction shall designate an employee of the State Department of Education to serve as the military family education liaison. The liaison shall assist military families and the state in facilitating the implementation of the compact, subject to the direction of the Council.

3. The Department shall pay any expenses the compact commissioner and military family education liaison incur in fulfilling duties related to the compact. **(70-510.2)**

Section 811. Eye Protective Device - Wearing Required in Certain Courses of Instruction.

Every student and teacher in schools, colleges, universities, or other educational institutions, participating in or observing any of the following courses of instruction in:

(A) Vocational, technical, industrial ants, chemical, or chemical-physical, involving exposure to:

1. Hot molten metals, or other molten materials;

2. Milling, sawing, turning, shaping, cutting, grinding, or stamping of any solid materials;

3. Heat treatment, tempering, or kiln firing of any metal or other materials;

4. Gas or electric arc welding, or other forms of welding processes;

5. Repair or servicing of any vehicle where there is danger of injury to the eyes;

6. Caustic or explosive materials;

(B) Chemical, physical, or combined chemical-physical laboratories involving caustic or explosive materials, hot liquids or solids, injurious radiations, or other hazards not enumerated; is required to wear appropriate industrial quality eye protective devices at all times while participating in or observing such courses of instruction. Such devices may be furnished for all students and teachers, or made available for a moderate rental fee, and shall be furnished for all visitors to such shops and laboratories when entering working areas.

"Industrial quality eye protective devices", as used in this section means devices meeting the standards of the USA Standard Practice for Occupational and Educational Eye and Face Protection, Z87.1-1968, and subsequent revisions thereof, approved by the United States of America Standards Institute, Inc.

The State Commissioner of Health shall prepare and circulate to each public and private educational institution in this state instructions and recommendations for implementing the eye safety provisions of this law. **(70-1210.182)**

Section 812. Immunization of Child Before First Admission to School.

A. No minor child shall be admitted to any public, private, or parochial school operating in this state unless and until certification is presented to the appropriate school authorities from a licensed physician, or authorized representative of the State Department of Health, that such child has received or is in the process of receiving, immunizations against diphtheria, pertussis, tetanus, haemophilus influenzae type B (HIB), measles (rubeola), rubella, poliomyelitis, varicella, and hepatitis A or is likely to be immune as a result of the disease.

B. Immunizations required, and the manner and frequency of their administration, as prescribed by the State Board of Health, shall conform to recognized standard medical practices in the state. The State Department of Health shall supervise and secure the enforcement of the required immunization program. The State Department of Education and the governing boards of the school districts of this state shall render reasonable assistance to the State Department of Health in the enforcement of the provisions hereof.

C. The State Board of Health, by rule, may alter the list of immunizations required after notice and hearing. Any change in the list of immunizations required shall be submitted to the next regular session of the Legislature and such change shall remain in force and effect unless and until a concurrent resolution of disapproval is passed. Hearings shall be conducted by the State Board of Health, or such officer, agents or employees as the Board may designate for that purpose. The State Board of Health shall give appropriate notice of the proposed change in the list of

immunizations required and of the time and place for hearing. The change shall become effective on the date fixed by the State Board of Health. Any change in the list of immunizations required may be amended or repealed in the same manner as provided for its adoption. Proceedings pursuant to this subsection shall be governed by the Administrative Procedures Act. **(70-1210.191)**

Child not immunized and without proper certificate or statement may be denied admittance to school. *August 5, 1976 (AG Op. No. 76-293)*

Official not performing immunization program enforcement duty is guilty of misdemeanor. *August 5, 1976 (AG Op. No. 76-293)*

Section 813. Exemption from Immunization.

Any minor child, through the parent, guardian, or legal custodian of the child, may submit to the health authority charged with the enforcement of the immunization laws of this state:

1. A certificate of a licensed physician as defined in Section 725.2 of Title 59 of the Oklahoma Statutes, stating that the physical condition of the child is such that immunization would endanger the life or health of the child; or

2. A written statement by the parent, guardian or legal custodian of the child objecting to immunization of the child;

whereupon the child shall be exempt from the immunization laws of this state. **(70-1210.192)**

Section 814. Immunizations - Administration - Payment.

The immunizations will be administered by a licensed physician, someone under his direction, or public health department. If the parents or guardians are unable to pay, the State Department of Public Health shall provide, without charge, the immunization materials required by this act to such pupils. The parents, guardian or person having legal custody of any child may claim an exemption from the immunizations on medical, religious or personal grounds. **(70-1210.193)**

Section 815. School Attendance of Child Afflicted with Contagious Disease - Head Lice.

A. Any child afflicted with a contagious disease or head lice may be prohibited from attending a public, private, or parochial school until such time as he is free from the contagious disease or head lice.

B. Any child prohibited from attending school due to head lice shall present to the appropriate school authorities, before the child may reenter school, certification from a health professional as defined by Section 2601 of Title 63 of the Oklahoma Statutes or an authorized representative of the State Department of Health that the child is no longer afflicted with head lice.

C. School district and county or city-county health departments may enter into agreements under the Interlocal Cooperation Act for the purpose of providing assistance to the school district by inspecting children who are returning to school after an absence due to head lice to ensure that the child is no longer afflicted with head lice.

D. If a school district and county or city-county health department has entered into an agreement as authorized in subsection C of this section, upon written authorization of the parent or guardian of a child, the county or city-county health department may provide treatment to the child for head lice. **(70-1210.194)**

Section 815.1. Meningococcal Meningitis.

A. At the beginning of each school year, when the board of education of a school district provides information on immunizations, infectious disease, medications, or other school health issues to parents and guardians of students in grades six through twelve, the board shall include information about meningococcal meningitis. The information shall include at least the causes and symptoms of meningococcal meningitis, how it is spread, sources for additional

information about meningococcal meningitis, and the availability, effectiveness, and risks of vaccination against the disease.

B. The State Department of Education, in cooperation with the State Department of Health, shall develop and make available to school districts information that meets the requirements of subsection A of this section. The State Department of Education shall develop and make the information available in the most cost-effective and programmatically effective manner available as determined by the Department, which shall at a minimum include posting the information on the Department's website. **(70-1210.195)**

Section 815.2. Diabetes Management in Schools Act.

Sections 3 through 9 of this act shall be known and may be cited as the "Diabetes Management in Schools Act". **(70-1210.196.1**)

Section 815.2a. Definitions.

As used in the Diabetes Management in Schools Act:

1. "Diabetes medical management plan" means a document developed by the personal health care team of a student that sets out the health services that may be needed by the student at school and is signed by the personal health care team and the parent or guardian of the student;

2. "School" means a public elementary or secondary school. The term shall not include a charter school established pursuant to Section 3-132 of Title 70 of the Oklahoma Statutes;

3. "School nurse" means a certified school nurse as defined in Section 1-116 of Title 70 of the Oklahoma Statutes, a registered nurse contracting with the school to provide school health services, or a public health nurse; and

4. "Volunteer diabetes care assistant" means a school employee who has volunteered to be a diabetes care assistant and who has successfully completed the training required by Section 6 of this act. **(70-1210.196.2)**

Section 815.2b. Diabetes Management Plan.

A diabetes medical management plan shall be developed for each student with diabetes who will seek care for diabetes while at school or while participating in a school activity. The plan shall be developed by the personal health care team of each student. The personal health care team shall consist of the principal or designee of the principal, the school nurse, if a school nurse is assigned to the school, the parent or guardian of the student, and to the extent practicable, the physician responsible for the diabetes treatment of the student. **(70-1210.196.3)**

Section 815.2c. Implementation.

A. The school nurse at each school in which a student with diabetes is enrolled shall assist the student with the management of their diabetes care as provided for in the diabetes medical management plan for the student.

B. If a school does not have a school nurse assigned to the school, the principal shall make an effort to seek school employees who may or may not be health care professionals to serve as volunteer diabetes care assistants to assist the student with the management of their diabetes care as provided for in the diabetes medical management plan for the student.

C. Each school in which a student with diabetes is enrolled shall make an effort to ensure that a school nurse or a volunteer diabetes care assistant is available at the school to assist the diabetic student when needed.

D. A school employee shall not be subject to any penalty or disciplinary action for refusing to serve as a volunteer diabetes care assistant.

E. A school district shall not restrict the assignment of a student with diabetes to a particular school site based on the presence of a school nurse, contract school employee, or a volunteer diabetes care assistant.

F. Each school nurse and volunteer diabetes care assistant shall at all times have access to a physician. **(70-1210.196.4)**

Section 815.2d. Volunteer Diabetes Assistant - Training.

A. The State Department of Health shall develop guidelines, with the assistance of the following entities, for the training of volunteer diabetes care assistants:

1. Oklahoma School Nurses Association;

2. The American Diabetes Association;

3. The Juvenile Diabetes Research Foundation International;

4. The Oklahoma Nurses Association;

5. The State Department of Education;

6. Oklahoma Board of Nursing;

7. Oklahoma Dietetic Association; and

8. Cooperative Council of School Administrators.

B. A school nurse or State Department of Health designee with training in diabetes shall coordinate the training of volunteer diabetes care assistants.

C. The training shall include instruction in:

1. Recognizing the symptoms of hypoglycemia and hyperglycemia;

2. Understanding the proper action to take if the blood glucose levels of a student with diabetes are outside the target ranges indicated by the diabetes medical management plan for the student;

3. Understanding the details of the diabetes medical management plan of each student assigned to a volunteer diabetes care assistant;

4. Performing finger sticks to check blood glucose levels, checking urine ketone levels, and recording the results of those checks;

5. Properly administering insulin and glucagon and recording the results of the administration;

6. Recognizing complications that require seeking emergency assistance; and

7. Understanding the recommended schedules and food intake for meals and snacks for a student with diabetes, the effect of physical activity on blood glucose levels, and the proper actions to be taken if the schedule of a student is disrupted.

D. The volunteer diabetes care assistant shall annually demonstrate competency in the training required by subsection C of this section.

E. The school nurse, the principal, or a designee of the principal shall maintain a copy of the training guidelines and any records associated with the training. **(70-1210.196.5)**

Section 815.2e. Transportation.

A. Each school district shall provide, with the permission of the parent, to each school employee who is responsible for providing transportation for a student with diabetes or supervising a student with diabetes an information sheet that:

1. Identifies the student who has diabetes;

2. Identifies potential emergencies that may occur as a result of the diabetes of the student and the appropriate responses to emergencies; and

3. Provides the telephone number of a contact person in case of an emergency involving the student with diabetes.

B. The school employee provided information as set forth in this section shall be informed of all health privacy policies. **(70-1210.196.6)**

Section 815.2f. Student Management.

A. In accordance with the diabetes medical management plan of a student, a school shall permit the student to attend to the management and care of the diabetes of the student, which may include:

1. Performing blood glucose level checks;

2. Administering insulin through the insulin delivery system used by the student;

3. Treating hypoglycemia and hyperglycemia;

4. Possessing on the person of the student at any time any supplies or equipment necessary to monitor and care for the diabetes of the student; and

5. Otherwise attending to the management and care of the diabetes of the student in the classroom, in any area of the school or school grounds, or at any school-related activity.

B. Each school shall provide a private area where the student may attend to the management and care of the student's diabetes. **(70-1210.196.7)**

Section 815.2g. Employee Immunity.

A. A school employee may not be subject to any disciplinary proceeding resulting from an action taken in compliance with the Diabetes Management in Schools Act. Any employee acting in accordance with the provisions of the act shall be immune from civil liability unless the actions of the employee rise to a level of reckless or intentional misconduct.

B. A school nurse shall not be responsible for and shall not be subject to disciplinary action for actions performed by a volunteer diabetes care assistant. **(70-1210.196.8)**

Section 816. Medicine - Administration - School Nurses.

A. 1. Either parent or the court-appointed legal guardian of a child may authorize, in writing, any adult person into whose care the minor has been entrusted to consent to any:

a. x-ray examination,

b. anesthetic,

c. medical or surgical diagnosis or treatment,

d. hospital care, or

e. immunization, blood tests, examinations, Guidance Services, and Early Intervention Services provided by a city or county Department of Health,

to be rendered to said minor under the general or special supervision and upon the advice of a physician and surgeon licensed under the laws of the State of Oklahoma, or to consent to an x-ray examination, anesthetic, dental or surgical diagnosis or treatment and hospital care to be rendered to said minor by a dentist licensed under the laws of the State of Oklahoma.

2. If any parent or other person falsely represents in writing that such parent or other person has legal custody or legal guardianship of the minor child, or if any adult falsely represents that the written authorization provided for in this subsection is valid, and a health professional provides health services or care as provided by this section in good faith upon such misrepresentation, the health professional shall incur no liability except for negligence or intentional harm.

B. Either parent, if both parents have legal custody, or the parent or person having legal custody or the legal guardian of a minor may authorize, in writing, pursuant to the provisions of Section 1-116.2 of Title 70 of the Oklahoma Statutes a school or county nurse or in the absence of such nurse, a school administrator or designated school employees to administer:

1. A nonprescription medicine; and

2. A filled prescription medicine as that term is defined by Section 353.1 of Title 59 of the Oklahoma Statutes. **(10A-1-3-101)**

Section 816.1. Concussion and Head Injuries.

A. Each school district board of education shall work in cooperation with the Oklahoma Secondary School Activities Association to develop the guidelines and other pertinent information and forms to inform and educate coaches, youth athletes, and their parents or guardians of the nature and risk of concussion and head injury, including continuing to play after concussion or head injury. On an annual basis, a concussion and head injury information sheet shall be completed and returned to the school district by the youth athlete and the athlete's parent or guardian prior to the youth athlete's participation in practice or competition.

B. A youth athlete who is suspected of sustaining a concussion or head injury during a practice or game shall be removed from participation at that time.

C. A youth athlete who has been removed from participation as provided in subsection B of this section may not participate until the athlete is evaluated by a licensed health care provider trained in the evaluation and management of concussion and receives written clearance to return to participation from that health care provider. The health care provider may be a volunteer. A volunteer who authorizes a youth athlete to return to participation shall not be liable for civil damages resulting from any act or omission in the rendering of such care, other than acts or omissions constituting gross negligence or willful or wanton misconduct. **(70-24-155)**

Section 817. Deaf Children - Special Education.

A. It shall be the right of every child who is deaf or so hard of hearing that he cannot participate in the regular public school program to receive an appropriate education at the expense of the State of Oklahoma. It shall be the duty of every school district to seek out and identify every such child between the ages of two (2) and twenty-one (21) years at the earliest possible age under procedures to be prescribed by regulations of the State Department of Education. It shall be the duty of every parent or other person having custody of such child to cause such child to be enrolled in and attend a school which provides special education for such deaf children.

B. The State Department of Education may establish educational programs for preschool deaf and hard-of hearing children by regional education service centers. Such programs shall serve preschool deaf and hard-of-hearing children from the age the hearing impairment is detected by a licensed physician or audiologist. Such programs shall also include a course of instruction for the parents of deaf and hard-of-hearing children. **(70-1210.171)**

Section 818. Enforcement of Preceding Section.

The duties of the school district under the preceding section shall be enforced by the State Department of Education through orders issued after a hearing upon due notice to such district. **(70-1210.172)**

Section 819. Reports of School Dropouts.

A. It shall be the duty of the superintendent, principal or head teacher of each public or private middle, junior high and high school accredited by the State Department of Education in the State of Oklahoma to notify the State Department of Education quarterly as scheduled by the Department of the name, address, race and age of any pupil dropping out from such school during the preceding quarter. Such report shall be made on forms prescribed and furnished by the State Department of Education.

B. The Oklahoma State Board of Education shall cause these statistics of school dropouts to be tabulated by grade and school district. Information of school dropouts shall be made available to the Oklahoma Department of Career and Technology Education, the Oklahoma Indian Affairs Commission, the Bureau of Indian Affairs and the Department of Health, Education and Welfare.

C. The State Department of Education shall make an annual report to the Legislature prior to the convening of each regular session thereof of information received and tabulated pursuant to this section.

D. For the purposes of this section, school dropout means any student who is under the age of nineteen (19) and has not graduated from high school and is not attending any public or private school or is otherwise receiving an education pursuant to law for the full term the schools of the school district in which he resides are in session. **(70-35e)**

Information regarding school dropouts cannot be released upon request of third person. *January 18, 1980 (AG Op. No. 79-294)*

Section 819.1. Counseling and Evaluation for Certain Truants.

* * * * *

G. 1. If it is consistent with the welfare of the child, in cases where the child has been adjudicated to be deprived due to the repeated absence from school, the court may order counseling and treatment for the child and the parents of the child to be provided by the local school district, the county, the Department or a private individual or entity.

2. Prior to final disposition, the court shall require that it be shown by the appropriate school district that a child found to be truant has been evaluated for literacy, learning disabilities, mental retardation, and hearing and visual impairments and other impediments which could constitute an educational handicap. The results of such tests shall be made available to the court for use by the court in determining the disposition of the case.

3. No child who has been adjudicated deprived upon the basis of noncompliance with the mandatory school attendance law alone may be placed in a public or private institutional facility or be removed from the custody of the lawful parent, legal guardian or custodian of the child.

4. A deprived adjudication based solely upon repeated absence from school shall not constitute a ground for termination of parental rights.

* * * * *

(10-7003-5.5)

Section 819.2. Proof of Enrollment in School for Drivers License.

A. The Department of Public Safety shall deny a license, restricted license, or instruction permit for the operation of a motor vehicle to any person under eighteen (18) years of age who does not, at the time of application, present documentation that such person:

1. a. is a student enrolled in a public or private secondary school, including any technology center school, of this state or any other state,

b. has received a diploma or certificate of completion issued to the person from a secondary school of this state or any other state,

c. is enrolled and making satisfactory progress in a program leading to a Certificate of High School Equivalency issued by the State Department of Education, or has obtained such certificate,

d. is excused from such requirement pursuant to a lawful excuse as defined in subsection G of this section or due to circumstances beyond the control of the person, or

e. is excused from such requirement pursuant to subsection C of this section; and

2. Has successfully passed the criterion-referenced reading test required for all eighth grade students or an alternative reading proficiency test approved by the State Department of Education pursuant to the provisions of Section 3[1] of this act demonstrating reading proficiency at the eighth grade reading level, unless such student is excused from such requirement pursuant to the provisions of Section 3 of this act.

Provided, during the summer months when school is not in regular session, as established by the school district pursuant to Section 1-109 of Title 70 of the Oklahoma Statutes, persons under eighteen (18) years of age may satisfy the documentation requirement of this subsection by providing a notarized written statement from the parent, custodial parent or legal guardian of the child to the Department of Public Safety that the child completed the immediately previous school year and is enrolled or intends to enroll for the immediately subsequent school year. The documentation shall be signed by the parent, custodial parent or legal guardian.

B. 1. A student under eighteen (18) years of age who is receiving education by other means, including education at home pursuant to Section 4 of Article XIII of the Oklahoma Constitution, shall satisfy the documentation requirement of paragraph 1 of subsection A of this section by providing a written statement from the parent, custodial parent, or legal guardian of the student to the Department of Public Safety attesting that the child is receiving instruction by other means pursuant to Section 4 of Article XIII of the Oklahoma Constitution. The documentation shall be signed by the parent, custodial parent, or legal guardian.

2. Any person who falsifies the information required in such documentation, upon conviction, shall be guilty of a misdemeanor.

C. 1. A student under eighteen (18) years of age, who does not meet the requirements of subparagraphs a through c of paragraph 1 of subsection a of this section or the requirements of subsection b of this section, may retain or be issued a driver license if:

a. the student is employed at least twenty-four (24) hours per week, and

b. the student's employer verifies such employment on a form prescribed by the department of public safety.

2. Any student who has retained or been issued a driver license pursuant to this subsection who leaves such employment shall have fifteen (15) days from the date of termination of employment to provide verification of employment from a new employer.

3. Any employer who falsifies a verification of employment shall be subject to an administrative fine of not more than Fifty Dollars ($50.00), to be assessed by the Department of Public Safety.

D. 1. School district attendance officers, upon request, shall provide a documentation of enrollment status form, established and approved by the Department of Public Safety, to any student under eighteen (18) years of age who is properly enrolled in a school for which the attendance officer is responsible, for presentation to the Department of Public Safety upon application for or reinstatement of an instruction permit, restricted license, or license to operate a motor vehicle.

2. Except as provided in subsection E of this section, whenever a student over fourteen (14) years of age and under eighteen (18) years of age withdraws from school, the attendance officer shall notify the Department of Public Safety of such withdrawal through a documentation of enrollment status form.

3. Within fifteen (15) working days of the receipt of such notice, the department of public safety shall provide written notice to the student, by first class, postage prepaid mail, that the student's license will be canceled, or the driver license application of the student will be denied thirty (30) days following the date the notice to the student was sent, unless documentation of compliance with the provisions of this section is received by the Department of Public Safety before such time. After the thirty-day period, the Department of Public Safety shall cancel the driving privileges of the student.

E. When the withdrawal from school of a student is:

1. Due to circumstances beyond the control of the student;

2. Pursuant to any lawful excuse; or

3. For the purpose of transfer to another school, including education at home pursuant to Section 4 of Article XIII of the Oklahoma Constitution, as confirmed in writing by a parent, custodial parent, or legal guardian of the student, no notice as required by subsection D of this section shall be sent to the Department of Public Safety, or, if sent, such notice shall be disregarded by the department of public safety. If the student is applying for a license, restricted license, or instruction permit, the attendance officer shall provide the student with documentation to present to the department of public safety to excuse the student from the requirements of this section.

F. Every school district shall, upon request, provide documentation of reading proficiency for any student enrolled in such school district by certifying passage of a reading examination pursuant to the provisions of Section 3 of this act.

G. As used in this section:

1. "Withdrawal" means more than ten (10) consecutive days, or parts of days, of unexcused absences or fifteen (15) days, or parts of days, total unexcused absences during a single semester;

2. "Lawful excuse" means absence from school pursuant to any valid physical or mental illness or pursuant to any legal excuse as provided in Section 10-105 of Title 70 of the Oklahoma Statutes; provided, however, the meaning of such term shall not include marriage;

3. "Circumstances beyond the control of the person" shall not include marriage, suspension or expulsion from school, or imprisonment in a jail, penitentiary or other correctional institution;

4. "Documentation of enrollment status form" means the document established and approved by the department of public safety to substantiate information concerning a student's eligibility to apply for or to retain a license or permit to drive. Such documentation shall not include any information which is considered an education record pursuant to the family education rights and privacy act, 20 U.S.C., sections 1232g through 1232i, unless compliance is made with the restrictions regarding disclosure of the information; and

5. "Documentation of reading proficiency" means information provided by a school authorized by subsection B of Section 3 of this act to certify a student's eligibility to apply for a license or permit based on passage of a reading proficiency test approved by the State Department of Education, or pursuant to the alternative documentation criteria provided in subsection C of Section 3 of this act. Such documentation shall not include any information which is considered an education record pursuant to the Family Education Rights and Privacy Act, 20 U.S.C., sections 1232g through 1232i, unless compliance is made with the restrictions regarding disclosure of the information.

H. The provisions of this section shall be inapplicable with respect to any minor upon whom rights of majority have been conferred pursuant to Sections 91 through 94 of Title 10 of the Oklahoma Statutes.

I. The Department of Public Safety shall establish and approve documentation forms and certificates required by this section for use by school districts to comply with the provisions of this section. Upon establishment and approval of such forms and certificates, the Department of Public Safety shall notify each school district and the State Board of Education of the content thereof. **(47-6-107.3)**

Section 819.2A. Denial or Cancellation of Drivers License.

Whenever a license or instruction permit for the operation of a motor vehicle is canceled or denied pursuant to Section 6-107.3 of this title, the license or privilege to operate a motor vehicle shall remain canceled or denied for a minimum period of sixty (60) days or until the person whose license or permit has been canceled or denied reaches eighteen (18) years of age, whichever period is the shortest; provided, however, a denial pursuant to paragraph 2 of subsection A of Section 6-107.3 of this title shall remain in effect only until such time as a student presents to the Department of Public Safety sufficient documentation of attainment of an eighth grade level of reading proficiency pursuant to the provisions of Section 3 of this act. After the minimum period, the licensee or applicant may at anytime apply for driving privileges by presenting sufficient documentation to the Department of Public Safety pursuant to Section6-107.3 of this title and paying the fee required for issuance or renewal of a Class D license. **(47-6-107.4)**

Section 819.2B. Proof of Reading Proficiency for Drivers License.

A. Pursuant to the provisions of paragraph 2 of subsection A of Section 6-107.3 of Title 47 of the Oklahoma Statutes, any person under the age of eighteen (18) years wishing to apply for a driver license or permit shall successfully demonstrate a satisfactory reading ability at the eighth-grade reading level by meeting the following criteria:

1. A student enrolled in a public school shall successfully complete the reading portion of the state criterion-referenced test offered in the eighth grade. Following the administration of this test in the eighth grade, any student not successfully completing the reading portion shall be assigned a plan of remedial reading. Any student not successful in completing the reading portion of the state criterion-referenced test may take a comparable alternative reading proficiency test in order to satisfy the criteria for a driver license or permit. Alternative reading proficiency tests shall be approved by the State Department of Education. Subsequent successful completion of an alternative reading proficiency test shall serve to satisfy any test retaking requirement which may be required for the reading portion of the state criterion-referenced test in the eighth grade in the Oklahoma School Testing Program. School districts shall notify, in writing, each student who takes the reading portion of the state criterion-referenced test for the eighth grade or who takes an alternative reading proficiency test and the student's parent or legal guardian of the test results. If the student fails to perform satisfactorily on the test, the notice shall inform the student of the reading proficiency driver license requirement and the school's remediation plan for the student. Upon the student's successful completion of the test, the school shall furnish the student with the documentation needed for the driver license application in Oklahoma;

2. Unless alternatively documented according to the provisions of subsection C of this section, students under the age of eighteen (18) years shall successfully complete a reading proficiency test approved by the State Department of Education; and

3. Any student who wishes to apply for a restricted license to operate a motorcycle may take an alternative reading proficiency test, subject to the provisions of this section.

B. Alternative reading proficiency tests shall be offered by testing sites, which shall include the public schools at least four (4) times per calendar year, and may include any of the following which chose to participate, the technology center school districts, Regional Education Service Centers, colleges, accredited private schools, and other sites approved by the State Department of Education. A student may take the test as often as wished, subject to the provisions of this section. Testing sites shall provide the first alternative reading proficiency test for each student at no cost to the student. Students may be assessed a fee not to exceed Twenty-five Dollars ($25.00) by the testing site for each subsequent alternative reading proficiency test taken.

C. A school district shall provide for alternative documentation of reading proficiency for the purposes of paragraph 2 of subsection A of Section 6-107.3 of Title 47 of the Oklahoma Statutes for any student with an individualized education program that, at a minimum, is in an area related to reading. The alternative documentation shall be furnished to such student who is performing satisfactorily in reading pursuant to the student's individualized education program. Parents of disabled students educated pursuant to the provisions of Section 4 of Article XIII of the Oklahoma Constitution may satisfy the requirement of paragraph 2 of subsection A of Section 6-107.3 of Title 47 of the Oklahoma Statutes by signing an affidavit that, based upon their best information and belief, their child would qualify for an individualized education program that, at a minimum, is in an area related to reading if enrolled in public school, and that in their judgment their child is performing satisfactorily in reading and is therefore academically qualified to satisfy the requirement of paragraph 2 of subsection A of Section 6-107.3 of Title 47 of the Oklahoma Statutes. **(70-1210.515)**

Section 819.3. Jury Service.

No school, college, university, or other educational institution may take or permit to be taken any adverse academic action against a student because of the student's service on a grand, multicounty grand, or petit jury. **(38-37)**

Section 820. High School Seniors - Enrollment in College Courses.

A. The Oklahoma State Regents for Higher Education, in cooperation with the State Board of Education, shall actively encourage the concurrent enrollment in college or university courses of high school students of exceptional ability. The State Regents and State Board shall establish concurrent enrollment requirements and take all necessary actions to ensure the availability of concurrent enrollment opportunities.

B. The State Board of Education in cooperation with the Oklahoma State Regents for Higher Education shall prepare promotional materials explaining the requirements, features, and opportunities of concurrent enrollment and shall ensure that the independent school districts distribute the materials to each student prior to enrollment for each year of high school.

C. No institution of The Oklahoma State System of Higher Education shall deny enrollment in any course to any otherwise qualified high school student, or student of at least thirteen (13) years of age who is receiving high-school-level instruction at home, who meets the requirements of concurrent enrollment, nor shall any independent school district prohibit any student who meets the requirements of concurrent enrollment from participating.

D. 1. Each high school senior who meets the eligibility requirements for concurrent enrollment shall be entitled to receive a tuition waiver equivalent to the amount of resident tuition for a maximum of six (6) credit hours per semester.

2. Tuition waivers provided pursuant to this section shall be granted without any limitation on the number of waivers granted in any year other than the amount of funds available for the program and the number of eligible applicants. The Oklahoma State Regents for Higher Education shall establish an application process and criteria for prioritizing applicants on the basis of need, timeliness of application, or other factors as determined by the State Regents.

E. When a student earns college credit through concurrent enrollment, school districts shall provide academic credit for any concurrently enrolled higher education courses that are correlated with the academic credit awarded by the institution of higher education. Academic credit shall only be transcripted as elective credit if there is no correlation between the concurrent enrollment higher education course and a course provided by the school district. **(70-628.13)**

Section 820.1. Statements as to Transfer of Credits.

A. It is the intent of the Legislature that credits earned by students in any institution of higher education within The Oklahoma State System of Higher Education be fully accepted at any other institution of higher education within The Oklahoma State System of Higher Education and that the Oklahoma State Regents for Higher Education assume leadership in working with institutional faculty and administrators to ensure that students move smoothly from one level of education to another. Objectives should include development of transfer policies and guides, degree sheets, course equivalencies, and common course numbering.

B. It is the intent of the Legislature that institutions of higher education within The Oklahoma State System of Higher Education, private institutions accredited by the Oklahoma State Regents for Higher Education, technology center school districts, schools or training programs licensed, accredited, approved or regulated by any state agency, and private schools licensed by the Oklahoma Board of Private Vocational Schools be prohibited from placing statements in documents or brochures given to students or advertising in publications that credits earned at the institution, training program, or school are fully accepted at another institution or school without having a written agreement with the other institution or school stating that the credits will be fully accepted. **(70-3207.1)**

Section 821. Voter Registration in High Schools.

In addition, the secretary of each county election board shall appoint as voter registrars at least one person for every one thousand (1,000) registered voters in the county, as enumerated by the latest January 15 registration report; provided further, however, that the total number of voter registrars in any county need not exceed one hundred (100). The secretary of each county election board, or his designated qualified voting registrar, may visit each high school in his or her county, with concurrence of the school board of each school district, one time during the second semester of each school year, for the purpose of registering all eligible students who wish to register. All political parties in the county must be represented among the voter registrars. Said voter registrars shall be located in such a manner geographically as to provide convenient access for all qualified electors of the county. The secretary shall have the authority to remove any voter registrar at any time for any reason. To be eligible to become a voter registrar, one must be a registered voter of the county, and must demonstrate competence to perform his duties. Voter registrars shall be trained in their duties in a manner prescribed by the Secretary of the State Election Board. **(26-4-105)**

Section 822. Availability of Records to Noncustodial Parent.

Any information or any record relating to a minor child which is available to the custodial parent of the child, upon request, shall also be provided the noncustodial parent of the child. Provided, however, that this right may be restricted by the court, upon application, if such action is deemed necessary in the best interests of the child. For the purpose of this section, “information” and “record” shall include, but not be limited to, information and records kept by the school, physician and medical facility of the minor child. **(43-109.6)**

Section 822.1. Confidentiality and Disclosure of Records.

A. Except as provided by this section and except as otherwise specifically provided by state and federal laws, the following records are confidential and shall not be open to the general public or inspected or their contents disclosed:

1. Juvenile court records;

2. Agency records;

3. District attorney's records;

4. Law enforcement records;

5. Nondirectory education records; and

6. Social records.

B. The limitation of subsection A of this section shall not apply to statistical information and other abstract information obtained pursuant to the provisions of the Oklahoma Children's Code.

C. Except as authorized by Section 620.6 of Title 10 of the Oklahoma Statutes and this chapter and except as otherwise specifically provided by state and federal laws pertaining to education records, medical records, drug or alcohol treatment records, law enforcement, or social service records, the records listed in subsection A of this section shall be confidential and shall be inspected, released, disclosed, corrected or expunged only pursuant to an order of the court. A subpoena or subpoena duces tecum purporting to compel testimony or disclosure of such information or record shall be invalid.

D. 1. In a proceeding where the child custody or visitation is at issue, the safety analysis records of the Department shall be produced to the court when a parent, legal guardian, or child who is the subject of such record obtains a court order directing the production of the records.

2. The person or party seeking the records shall proceed by filing a motion for production of safety analysis records which contains the following averments:

a. the movant is a parent, legal guardian, or child who is the subject of the safety analysis records,

b. child custody or visitation is at issue,

c. that upon receipt from the court, the safety analysis records shall be kept confidential and disclosed only to the movant, the attorneys of the movant, those persons employed by or acting on behalf of the movant and the attorneys of the movant whose aid is necessary to the prosecution or defense of the child custody or visitation issue, and

d. that a copy of the motion is being provided to the parties, the attorney of the child, if any, and the guardian ad litem, if any.

3. Upon filing the motion for production of safety analysis records, the court may, in its discretion, enter an ex parte order for production of safety analysis records that shall be substantially in the following form:

CONFIDENTIAL RECORDS DISCLOSURE AND PROTECTIVE ORDER

NOW on this _____ day of _____, 20__, the court finds that child custody or visitation is at issue in the above styled and numbered proceeding and the disclosure of the safety analysis records of the Oklahoma Department of Human Services pursuant to Section 1-6-102 of this title is necessary and relevant to the court's determination of the child's best interests. The court therefore orders as follows:

a. The Oklahoma Department of Human Services ("Department" or "DHS") shall produce a copy of its safety analysis records to this court on or before ___ day of _____, 20__.

b. The Department shall be permitted to redact or omit information in its safety analysis records which may identify the reporter of alleged child abuse or neglect.

c. All information contained in the safety analysis records of the Department is confidential under Oklahoma law and shall be disclosed only to the parties, the attorneys of the parties, and those persons employed by or acting on behalf of the parties and the attorneys of the parties whose aid is necessary to the prosecution or defense of the child custody or visitation issue.

d. No confidential information whether contained in pleadings, briefs, discovery, or other documents shall be filed except under seal with the legend "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION AND IS SUBJECT TO A PROTECTIVE ORDER OF THE COURT".

e. No person or entity shall utilize any information contained in the safety analysis records for any purpose other than the prosecution or defense of the child custody or visitation issues in this case.

f. The release by counsel or any other person for any reason of identifiers such as social security or tax ID numbers that may be contained in the Department records and which belong to any person or entity is strictly prohibited.

g. Any violation of this order shall be subject to prosecution for contempt of court.

IT IS SO ORDERED this ___ day of _____, 20__.

4. This subsection shall not apply to:

a. deprived child proceedings brought pursuant to the Oklahoma Children's Code,

b. discovery of safety analysis records by a person or entity who is not the subject of those records, or

c. discovery of safety analysis records in criminal, other civil, or administrative proceedings.

5. The party who has obtained a court order for the safety analysis records of the Department shall provide the Department with the names and other identifying information concerning the subjects of the safety analysis records.

6. Upon receipt of a court order to produce its safety analysis records, the Department shall be given a minimum of five (5) judicial days to deliver the records to the court.

7. The safety analysis records provided by the Department to the court pursuant to this subsection shall not be subject to judicial review and shall be released by the court only to the litigants in the case under a protective order.

8. A court order entered pursuant to this subsection which purports to require the Department to produce all agency records shall be deemed to require only the production of the safety analysis records of the Department.

9. An employee of the Department shall not be compelled to testify about the safety analysis records except upon a court order directing such testimony. Any subpoena or subpoena duces tecum purporting to compel disclosure of safety analysis records or testimony concerning such records without a court order shall be invalid.

10. Except as provided by this subsection or other law, confidential records may be inspected, released, disclosed, corrected, or expunged only by the procedure set forth in subsection E of this section.

E. When confidential records may be relevant in a criminal, civil, or administrative proceeding, an order of the court authorizing the inspection, release, disclosure, correction, or expungement of confidential records shall be entered by the court only after a judicial review of the records and a determination of necessity pursuant to the following procedure:

1. A petition or motion shall be filed with the court describing with specificity the confidential records being sought and setting forth in detail the compelling reason why the inspection, release, disclosure, correction, or expungement of confidential records should be ordered by the court. A petition or motion that does not contain the required specificity or detail may be subject to dismissal by the court;

2. Upon the filing of the petition or motion, the court shall set a date for a hearing and shall require notice of not less than twenty (20) days to the agency or person holding the records and the person who is the subject of the record if such person is eighteen (18) years of age or older or to the parents of a child less than eighteen (18) years of age who is the subject of the record, to the attorneys, if any, of such person, child or parents and any other interested party as ordered by the court. The court may also enter an ex parte order compelling the person or agency holding the records to either produce the records to the court on or before the date set for hearing or file an objection or appear for the hearing. The court may shorten the time allowed for notice due to exigent circumstances;

3. At the hearing, should the court find that a compelling reason does not exist for the confidential records to be judicially reviewed, the matter shall be dismissed; otherwise, the court shall order that the records be produced for a judicial review. The hearing may be closed at the discretion of the court; and

4. The judicial review of the records shall include a determination, with due regard for the confidentiality of the records and the privacy of persons identified in the records, as to whether an order should be entered authorizing the inspection, release, disclosure, correction, or expungement of the records based upon the need for the protection of a legitimate public or private interest.

F. The court may, for good cause shown, prohibit the release of such confidential records or testimony or authorize a release of the confidential information or testimony upon such conditions as the court deems necessary and appropriate, subject to the provisions of this section.

G. Any public or private agency, entity, or professional person required to produce confidential records pursuant to this section may require payment of fees from the party seeking the records prior to any records being produced, including a research fee not exceeding Twenty Dollars ($20.00) per hour and a copy fee not to exceed fifty cents ($0.50) per page and Five Dollars ($5.00) per copy of each video tape or disk; provided, the court may waive such costs in a

criminal action based upon indigence of a defendant. The Department shall not be permitted to assess fees for records produced pursuant to subsection D of this section.

H. Nothing in Section 620.6 of Title 10 of the Oklahoma Statutes and this chapter shall be construed as:

1. Authorizing the inspection of records or the disclosure of information contained in records relating to the provision of benefits or services funded, in whole or in part, with federal funds, except in accord with federal statutes and regulations governing the receipt or use of such funds;

2. Authorizing the disclosure of papers, records, books or other information relating to the adoption of a child required to be kept confidential. The disclosure of such information shall be governed by the provisions of the Oklahoma Adoption Code;

3. Abrogating any privilege, including the attorney-client privilege, or affecting any limitation on such privilege found in any other statutes;

4. Limiting or otherwise affecting access of parties to a deprived proceeding to records filed with or submitted to the court;

5. Limiting or otherwise affecting access of agencies to information subject to disclosure, review, or inspection by contract or as a condition for the receipt of public funds or participation in any program administered by the agency;

6. Prohibiting the Department of Human Services from summarizing the outcome of an investigation to the person who reported a known or suspected instance of child abuse or neglect or to any person providing services to a child who is or is alleged to be a victim of child abuse;

7. Authorizing the disclosure of information which identifies any person who has reported an allegation of known or suspected child abuse or neglect unless such disclosure is specifically ordered by the court;

8. Prohibiting the Department of Human Services from providing a summary of allegations and findings of an investigation involving a child care facility that does not disclose identities but that permits parents to evaluate the facility;

9. Prohibiting the disclosure of confidential information to any educational institution, facility, or educator to the extent necessary to enable the educator to better provide educational services and activities for a child and provide for the safety of students; or

10. Prohibiting the Department from obtaining, without a court order, nondirectory education records pertaining to a child in the legal custody of the Department. **(10A-1-6-102).**

Note: See also Section 553.

Section 823. Repealed.

Section 823.1. Repealed.

Section 823.2. Reports of Child Abuse.

A. 1. The Department of Human Services shall establish a statewide centralized hotline for the reporting of child abuse or neglect to the Department.

2. The Department shall provide hotline-specific training including, but not limited to, interviewing skills, customer service skills, narrative writing, necessary computer systems, making case determinations, and identifying priority situations.

3. The Department is authorized to contract with third parties in order to train hotline workers.

4. The Department shall develop a system to track the number of calls received, and of that number:

a. the number of calls screened out,

b. the number of referrals assigned, and

c. the number of calls in which the allegations were later found to be unsubstantiated or ruled out.

B. 1. Every person having reason to believe that a child under the age of eighteen (18) years is a victim of abuse or neglect shall report the matter promptly to the Department of Human Services. Reports shall be made to the hotline provided for in subsection A of this section. Any allegation of abuse or neglect reported in any manner to a county office shall immediately be referred to the hotline by the Department. Provided, however, that in actions for custody by abandonment, provided for in Section 7 of this act, there shall be no reporting requirement.

2. Every physician, surgeon, or other health care professional including doctors of medicine, licensed osteopathic physicians, residents and interns, or any other health care professional attending the birth of a child who tests positive for alcohol or a controlled dangerous substance shall promptly report the matter to the Department.

3. No privilege or contract shall relieve any person from the requirement of reporting pursuant to this section.

4. The reporting obligations under this section are individual, and no employer, supervisor, or administrator shall interfere with the reporting obligations of any employee or other person or in any manner discriminate or retaliate against the employee or other person who in good faith reports suspected child abuse or neglect, or who provides testimony in any proceeding involving child abuse or neglect. Any employer, supervisor, or administrator who discharges, discriminates or retaliates against the employee or other person shall be liable for damages, costs and attorney fees.

5. Every physician, surgeon, or other health care professional making a report of abuse or neglect as required by this subsection or examining a child to determine the likelihood of abuse or neglect and every hospital or related institution in which the child was examined or treated shall provide, upon request, copies of the results of the examination or copies of the examination on which the report was based and any other clinical notes, x-rays, photographs, and other previous or current records relevant to the case to law enforcement officers conducting a criminal investigation into the case and to employees of the Department of Human Services conducting an investigation of alleged abuse or neglect in the case.

C. Any person who knowingly and willfully fails to promptly report suspected child abuse or neglect or who interferes with the prompt reporting of suspected child abuse or neglect may be reported to local law enforcement for criminal investigation and, upon conviction thereof, shall be guilty of a misdemeanor.

D. 1. Any person who knowingly and willfully makes a false report pursuant to the provisions of this section or a report that the person knows lacks factual foundation may be reported to local law enforcement for criminal investigation and, upon conviction thereof, shall be guilty of a misdemeanor.

2. If a court determines that an accusation of child abuse or neglect made during a child custody proceeding is false and the person making the accusation knew it to be false at the time the accusation was made, the court may impose a fine, not to exceed Five Thousand Dollars ($5,000.00) and reasonable attorney fees incurred in recovering the sanctions, against the person making the accusation. The remedy provided by this paragraph is in addition to paragraph 1 of this subsection or to any other remedy provided by law.

E. Nothing contained in this section shall be construed to exempt or prohibit any person from reporting any suspected child abuse or neglect pursuant to subsection B of this section. **(10A-1-2-101)**

Any person who has reason to believe that a child has been injured as a result of abuse or neglect must report such information, whether the information is current or historical, in all instances. *March 20, 1995 (AG Op. No. 95-18)*

Section 823.3. Repealed.

Section 823.4. Immunity from Civil or Criminal Liability.

A. Any person who, in good faith and exercising due care, reports suspected child abuse or neglect, or who allows access to a child by persons authorized to investigate a report concerning the child shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.

B. For purposes of any proceeding, civil or criminal, the good faith of any person in making a report pursuant to the provisions of Section 1-2-101 of this title shall be presumed.

C. A child advocacy center that is accredited by the National Children's Alliance, and the employees thereof, who are acting in good faith and exercising due care shall have immunity from civil liability that may be incurred or imposed through participation in the investigation process and any judicial proceeding resulting from the investigation process. **(10A-1-2-104)**

Section 823.4a. Promoting Preservation of Families.

The Oklahoma Commission on Children and Youth and the Oklahoma Youth Services Association, in cooperation with the Department of Human Services, shall:

1. Identify community-based prevention and intervention-related services and facilitate access to such services for children and families at risk of future abuse or neglect; and

2. Assist in the development and coordination of community-based programs that work to reduce the potential for abuse and neglect in at-risk families. **(10A-1-9-101)**

Section 823.5. Investigation of Child Abuse or Neglect.

A. 1. Any county office of the Department of Human Services receiving a child abuse or neglect report shall promptly respond to the report by initiating an investigation of the report or an assessment of the family in accordance with priority guidelines established by the Department. The Department may prioritize reports of alleged child abuse or neglect based on the severity and immediacy of the alleged harm to the child. The Department shall adopt a priority system pursuant to rules promulgated by the Commission for Human Services. The primary purpose of the investigation or assessment shall be the protection of the child.

2. If an investigation or assessment conducted by the Department in response to any report of child abuse or neglect shows that the incident reported was the result of the reasonable exercise of parental discipline involving the use of ordinary force, including, but not limited to, spanking, switching, or paddling, the investigation or assessment will proceed no further and all records regarding the incident shall be expunged.

B. 1. The investigation or assessment shall include a visit to the home of the child, unless there is reason to believe that there is an extreme safety risk to the child or worker or it appears that the referral has been made in bad faith. The visit shall include an interview with and examination of the subject child and may be conducted at any reasonable time and at any place including, but not limited to, the child's school. The Department shall notify the person responsible for the health, safety, and welfare of the child that the child has been interviewed at a school. The investigation or assessment may include an interview with the parents of the child or any other person responsible for the health, safety, or welfare of the child and an interview with and examination of any child in the home.

2. The investigation or assessment may include a medical, psychological, or psychiatric examination of any child in the home. If admission to the home, school, or any place where the child may be located cannot be obtained, then the district court having jurisdiction, upon application by the district attorney and upon cause shown, shall order the person responsible for the health, safety, or welfare of the child, or the person in charge of any place where the child may be located, to allow entrance for the interview, the examination, and the investigation or assessment. If the person responsible for the health, safety, or welfare of the child does not consent to a medical, psychological, or psychiatric examination of the child that is requested by the Department, the district court having jurisdiction, upon application by

the district attorney and upon cause shown, shall order the examination to be made at the times and places designated by the court.

3. The investigation or assessment may include an inquiry into the possibility that the child or a person responsible for the health, safety, or welfare of the child has a history of mental illness. If the person responsible for the child's health, safety, or welfare does not allow the Department to have access to behavioral health records or treatment plans requested by the Department, which may be relevant to the alleged abuse or neglect, the district court having jurisdiction, upon application by the district attorney and upon good cause shown, shall by order allow the Department to have access to the records pursuant to terms and conditions prescribed by the court.

4. a. If the court determines that the subject of the behavioral health records is indigent, the court shall appoint an attorney to represent that person at the hearing to obtain behavioral health records.

b. A person responsible for the health, safety, or welfare of the child is entitled to notice and a hearing when the Department seeks a court order to allow a psychological or psychiatric examination or access to behavioral health records.

c. Access to behavioral health records does not constitute a waiver of confidentiality.

5. The investigation of a report of sexual abuse or serious physical abuse or both sexual abuse and serious physical abuse shall be conducted, when appropriate and possible, using a multidisciplinary team approach as provided by Section 1-9-102 of this title. Law enforcement and the Department shall exchange investigation information.

C. 1. Every physician, surgeon, or other heath care provider making a report of abuse or neglect as required by this section or examining a child to determine the likelihood of abuse or neglect and every hospital or related institution in which the child was examined or treated shall provide copies of the results of the examination or copies of the examination on which the report was based and any other clinical notes, x-rays, photographs, and other previous or current records relevant to the case to law enforcement officers conducting a criminal investigation into the case and to employees of the Department conducting an assessment or investigation of alleged abuse or neglect in the case.

2. As necessary in the course of conducting an assessment or investigation, the Department may request and obtain, without a court order, copies of all prior medical records of a child including, but not limited to, hospital records, medical, and dental records. The physician-patient privilege shall not constitute grounds for failure to produce such records.

D. If, before the assessment or investigation is complete, the Department determines that immediate removal of the child is necessary to protect the child from further abuse or neglect, the Department shall recommend that the child be taken into custody.

E. The Department shall make a complete written report of the investigation. The investigation report, together with its recommendations, shall be submitted to the appropriate district attorney's office. Reports of assessment recommendations shall be submitted to appropriate district attorneys.

F. The Department, where appropriate and in its discretion, shall identify prevention and intervention-related services available in the community and arrange for such services to be provided to the family when an investigation or assessment indicates the family would benefit from such services, or the Department may provide such services directly. The Department shall document in the record its attempts to provide, or arrange for the provision of, voluntary services and shall determine within sixty (60) days whether the family has accessed such services. If the family refuses voluntary services or does not access such services, and it is determined by the Department that the child's surroundings endanger the health, safety, or welfare of the child, the Department may recommend that the child be placed in protective or emergency custody or that a petition be filed.

G. If the Department has reason to believe that a person responsible for the health, safety, and welfare of the child may remove the child from the state before the investigation is completed, the Department may request the district attorney to file an application for a temporary restraining order in any district court in the State of Oklahoma without regard to continuing jurisdiction of the child. Upon cause shown, the court may enter a temporary restraining order prohibiting the parent or other person from removing the child from the state pending completion of the assessment or investigation.

H. The Director of the Department or designee may request an investigation be conducted by the Oklahoma State Bureau of Investigation or other law enforcement agency in cases where it reasonably believes that criminally injurious conduct including, but not limited to, physical or sexual abuse of a child has occurred. **(10A-1-2-105)**

Section 823.6. Reports Confidential - Penalties for Violation.

A. The reports required by Section 1-2-101 of this title and all other information acquired pursuant to the Oklahoma Children's Code shall be confidential and may be disclosed only as provided by this Code, applicable state or federal law, regulation, or court order.

B. The confidential records and information that are authorized to be disclosed pursuant to this Chapter shall remain confidential and the use of such information shall be limited to the purposes for which disclosure is authorized. Persons or agencies obtaining records pursuant to this Chapter are prohibited from disclosing the contents of such records to another person or agency unless specifically authorized to do so by law or by the terms of a court order.

C. The disclosure of any confidential records or information made by the Department of Human Services pursuant to law or court order shall not be deemed a waiver of confidentiality or privilege, and any recipient of such records or information shall protect them against unauthorized disclosure and maintain them confidentially and in compliance with state and federal law.

D. Any person or agency who knowingly permits, assists, or encourages the release, disclosure, or use of confidential records or information for any commercial, political, or unauthorized purpose may be prosecuted for contempt of court or for a misdemeanor, which shall, upon conviction, be punishable by up to six (6) months in jail, by a fine of Five Hundred Dollars ($500.00), or by both such fine and imprisonment. **(10A-1-6-107)**

Section 823.7. Disclosure of Investigation.

At the initial time of contact with a person responsible for the health, safety, or welfare of a child who is the subject of an investigation pursuant to the Oklahoma Children's Code, the Department of Human Services shall advise the person of the specific complaint or allegation made against the person. If the Department is unable to locate the person, as soon as possible after initiating the investigation of the person, the Department shall provide to the person a brief and easily understood written description of the investigation process. Notice shall include:

1. A statement that the investigation is being undertaken by the Department pursuant to the requirements of the Oklahoma Children's Code in response to a report of child abuse or neglect;

2. A statement that the identity of the person who reported the incident of abuse is confidential and may not even be known to the Department since the report could have been made anonymously;

3. A statement that the investigation is required by law to be conducted in order to enable the Department identify incidents of abuse or neglect in order to provide protective or preventive social services to families who are in need of such services;

4. A statement that, upon completion of the investigation, a letter will be sent from the Department which will inform the person:

a. that the Department has found insufficient evidence of abuse or neglect, or

b. that there appears to be probable cause to suspect the existence of child abuse or neglect in the judgment of the Department;

5. An explanation of the procedures of the Department for conducting an investigation of alleged child abuse or neglect, including:

a. a description of the circumstances under which the Department would seek to remove the child from the home through the judicial system, and

b. an explanation that the law requires the Department to refer all reports of child abuse or neglect to a law enforcement agency for a separate determination of whether a criminal violation occurred;

6. The procedures to follow if there is a complaint regarding the actions of the Department or to request a review of the findings made by the Department during or at the conclusion of the investigation;

7. The right of the person to review records filed with the court in the event an action is filed;

8. The right of the person to seek legal counsel;

9. References to the statutory and regulatory provisions governing child abuse and neglect and how the person may obtain copies of those provisions;

10. The process the person may use to acquire visitation with the child if the child is removed from the home; and

11. A statement that a failure to appear for court proceedings may result in the termination of the person's parental rights to the child. **(10A-1-2-106)**

Section 823.8. Information to Professional Services Providers.

A. The Department of Human Services may provide information to a person or agency that provides professional services such as medical examination of or therapeutic intervention with a victim of abuse or neglect. This information may include, but is not limited to:

1. The investigative determination; or

2. The services offered and provided.

B. The Department shall forward to any hospital or any physician, including, but not limited to, doctors of medicine and dentistry, licensed osteopathic physicians, residents and interns, reporting the abuse or neglect of a child pursuant to Section 1-2-101 of this title, information including the investigative determination, the services offered or provided, and such other information deemed necessary by the Department. The information shall be entered and maintained in the medical records of the child. **(10A-1-2-107)**

Section 823.8a. Orders Regarding Adjudicated Children.

A. The following kinds of orders of disposition may be made in respect to children adjudicated in need of supervision or delinquent:

* * * * *

2. If it is consistent with the welfare of the child, the child shall be placed with the parent or legal guardian of the child, but if it appears to the court that the conduct of such parent, guardian, legal guardian, stepparent or other adult person living in the home has contributed to the child becoming delinquent or in need of supervision, the court may issue a written order specifying conduct to be followed by such parent, guardian, legal custodian, stepparent or other adult person living in the home with respect to such child. The conduct specified shall be such as would reasonably prevent the child from continuing to be delinquent or in need of supervision.

a. If it is consistent with the welfare of the child, in cases where the child has been adjudicated to be in need of supervision due to repeated absence from school, the court may order counseling and treatment for the child and the parents of the child to be provided by the local school district, the county, the Office or a private individual or entity. Prior to final disposition, the court shall require that it be shown by the appropriate school district that a child found to be truant has been evaluated for learning disabilities, hearing and visual impairments and other impediments which could constitute an educational handicap or has been evaluated to determine whether the child has a disability if it is suspected that the child may require special education services in accordance with the Individuals with Disabilities Education Act

(IDEA). The results of such tests shall be made available to the court for use by the court in determining the disposition of the case.

b. In issuing orders to a parent, guardian, legal guardian, stepparent or other adult person living in the home of a child adjudicated to be a delinquent child or in making other disposition of said delinquent child, the court may consider the testimony of said parent, guardian, legal guardian, stepparent or other adult person concerning the behavior of the juvenile and the ability of such person to exercise parental control over the behavior of the juvenile.

c. In any dispositional order involving a child age sixteen (16) or older, the court shall make a determination, where appropriate, of the services needed to assist the child to make the transition to independent living.

No child who has been adjudicated in need of supervision only upon the basis of truancy or noncompliance with the mandatory school attendance law shall be placed in a public or private institutional facility or be removed from the custody of the lawful parent, guardian or custodian of the child.

3. The court may commit the child to the custody of a private institution or agency, including any institution established and operated by the county, authorized to care for children or to place them in family homes. In committing a child to a private institution or agency, the court shall select one that is licensed by any state department supervising or licensing private institutions and agencies; or, if such institution or agency is in another state, by the analogous department of that state. Whenever

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B. Prior to adjudication or as directed by a law enforcement subpoena or court order, a school district may disclose educational records to the court or juvenile justice system for purposes of determining the ability of the juvenile justice system to effectively serve a child. Any disclosure of educational records shall be in accordance with the requirements of the Family Educational Rights and Privacy Act of 1974 (FERPA). If the parent, guardian, or custodian of a child adjudicated a delinquent child asserts that the child has approval not to attend school pursuant to Section 10-105 of Title 70 of the Oklahoma Statutes, the court or the Office of Juvenile Affairs may require the parent to provide a copy of the written, joint agreement to that effect between the school administrator of the school district where the child attends school and the parent, guardian, or custodian of the child.

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(10A-2-2-503)

Section 823.9. Repealed.

Note: Repealed by SB 553, Sec. 13 of the 2011 Reg. Sess.

Section 824 - 825. (Omitted)

Section 826. Hazing Prohibited.

A. No student organization or any person associated with any organization sanctioned or authorized by the governing board of any public or private school or institution of higher education in this state shall engage or participate in hazing.

B. Any hazing activity described in subsection F of this section upon which the initiation or admission into or affiliation with an organization sanctioned or authorized by a public or private school or by any institution of higher education in this state is directly or indirectly conditioned shall be presumed to be a forced activity, even if the student willingly participates in such activity.

C. A copy of the policy or the rules and regulations of the public or private school or institution of higher education which prohibits hazing shall be given to each student enrolled in the school or institution and shall be deemed to be part of the bylaws of all organizations operating at the public school or the institution of higher education.

D. Any organization sanctioned or authorized by the governing board of a public or private school or of an institution of higher education in this state which violates subsection A of this section, upon conviction, shall be guilty of a misdemeanor, and may be punishable by a fine of not more than One Thousand Five Hundred Dollars ($1,500.00) and the forfeit for a period of not less than one (1) year all of the rights and privileges of being an organization organized or operating at the public or private school or at the institution of higher education.

E. Any individual convicted of violating the provisions of subsection A of this section shall be guilty of a misdemeanor and may be punishable by imprisonment for not to exceed ninety (90) days in the county jail, or by the imposition of a fine not to exceed Five Hundred Dollars ($500.00), or by both such imprisonment and fine.

F. For purposes of this section:

1. "Hazing" means an activity which recklessly or intentionally endangers the mental health or physical health or safety of a student for the purpose of initiation or admission in to or affiliation with any organization operating subject to the sanction of the public or private school or of any institution of higher education in this state;

2. "Endanger the physical health" shall include but not be limited to any brutality of a physical nature, such as whipping, beating, branding, forced calisthenics, exposure to the elements, forced consumption of any food, alcoholic beverage as defined in Section 506 of Title 37 of the Oklahoma Statutes, low-point beer as defined in Section 163.2 of Title 37 of the Oklahoma Statutes, drug, controlled dangerous substance, or other substance, or any other forced physical activity which could adversely affect the physical health or safety of the individual; and

3. "Endanger the mental health" shall include any activity, except those activities authorized by law, which would subject the individual to extreme mental stress, such as prolonged sleep deprivation, forced prolonged exclusion from social contact, forced conduct which could result in extreme embarrassment, or any other forced activity which could adversely affect the mental health or dignity of the individual. **(21-1190)**

Section 827. Refusal of Minor to Furnish Information Concerning Acquisition of Cigarettes, Cigarette Papers, Cigars, Snuff, Chewing Tobacco or Other Tobacco Products.

Any minor being in possession of cigarettes, cigarette papers, cigars, snuff, chewing tobacco, or any other form of tobacco product and being by any police officer, constable, juvenile court officer, truant officer, or teacher in any school, asked where and from whom such cigarettes, cigarette papers, cigars, snuff, chewing tobacco, or any other form of tobacco product were obtained, who shall refuse to furnish such information, shall be guilty of a misdemeanor and upon conviction thereof before the district court, or any judge of the district court, such minor being of the age of sixteen (16) years or upwards shall be sentenced to pay a fine not exceeding Five Dollars ($5.00) or to undergo an imprisonment in the jail of the proper county not exceeding five (5) days, or both; if such minor shall be under the age of sixteen (16) years, he or she shall be certified by such magistrate or justice to the juvenile court of the county for such action as said court shall deem proper. **(21-1242)**

Section 828. Furnishing Tobacco Products to Minors Punishment.

Any person who shall furnish to any minor by gift, sale or otherwise any cigarettes, cigarette papers, cigars, snuff, chewing tobacco, or any other form of tobacco product shall be guilty of a misdemeanor and upon conviction thereof shall be sentenced to pay a fine of not less than Twenty-five Dollars ($25.00) nor more than Two Hundred Dollars ($200.00) and be confined in the county jail not less than ten (10) days nor more than ninety (90) days for each offense. **(21-1241)**

Section 829. Disclosure of Certain Records by Public Libraries.

A. Any library which is in whole on in part supported by public funds including but not limited to public, academic, school or special libraries, and having records indicating which of its documents or other materials, regardless of format, have been loaned to or used by an identifiable individual or group shall not disclose such records to any person except to:

1. Persons acting within the scope of their duties in the administration of the library;

2. Persons authorized to inspect such records, in writing, by the individual or group; or

3. By order of a court of law.

B. The requirements of this section shall not prohibit middle and elementary school libraries from maintaining a system of records that identifies the individual or group to whom library materials have been loaned even if such system permits a determination, independent of any disclosure of such information by the library, that documents or materials have been loaned to an individual or group. **(65-1-105)**

Registries maintained by libraries that indicate which of the libraries' documents or materials have been loaned to or used by identifiable individuals shall not be disclosed unless one of the three exceptions set forth in 65 O.S. 2001, § 1-105(A) is met. *June 13, 2005 (AG Op. No. 05-19)*

Section 830. Confidentiality of AIDS Infected Student Multidisciplinary Team.

A. Unless otherwise provided by law, all information and records which identify any person who has or may have any communicable or venereal disease which is required to be reported pursuant to Sections 1-501 through 1-532.1 of this title and which are held or maintained by any state agency, health care provider or facility, physician, health professional, laboratory, clinic, blood bank, funeral director, third party payor, or any other agency, person, or organization in the state shall be confidential. Any information authorized to be released pursuant to paragraphs 1 through 8 of this subsection shall be released in such a way that no person can be identified unless otherwise provided for in such paragraph or by law. Such information shall not be released except under the following circumstances:

1. Release is made upon court order;

2. Release is made in writing, by or with the written consent of the person whose information is being kept confidential or with the written consent of the legal guardian or legal custodian of such person, or if such person is a minor, with the written consent of the parent or legal guardian of such minor;

3. Release is necessary as determined by the State Department of Health to protect the health and well-being of the general public. Any such order for release by the Department and any review of such order shall be in accordance with the procedures specified in Sections 309 through 323 of Title 75 of the Oklahoma Statutes. Only the initials of the person whose information is being kept confidential shall be on public record for such proceedings unless the order by the Department specifies the release of the name of such person and such order is not appealed by such person or such order is upheld by the reviewing court;

4. Release is made of medical or epidemiological information to those persons who have had risk exposures pursuant to Section 1-502.1 of this title;

5. Release is made of medical or epidemiological information to health professionals, appropriate state agencies, or district courts to enforce the provisions of Sections 1-501 through 1-532.1 of this title and related rules and regulations concerning the control and treatment of communicable or venereal diseases;

6. Release is made of specific medical or epidemiological information for statistical purposes in such a way that no person can be identified;

7. Release is made of medical information among health care providers, their agents or employees, within the continuum of care for the purpose of diagnosis and treatment of the person whose information is released. This exception shall not authorize the release of confidential information by a state agency to a health care provider unless such release is otherwise authorized by this section; or

8. When the patient is an inmate in the custody of the Department of Corrections or a private prison or facility under contract with the Department of Corrections, and the release of the information is necessary:

a. to prevent or lessen a serious and imminent threat to the health or safety of a person or the public, and it is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat, or

b. for law enforcement authorities to identify or apprehend an individual where it appears from all the circumstances that the individual has escaped from a correctional institution or from lawful custody.

B. For the purposes of this section only, "written consent" means that the person whose information is required to be kept confidential by this section or the person legally authorized to consent to release by this section has been informed of all persons or organizations to whom such information may be released or disclosed by the specific release granted. Releases granted pursuant to paragraph 2 of subsection A of this section shall include a notice in bold typeface that the information authorized for release may include records which may indicate the presence of a communicable or venereal disease which may include, but are not limited to, diseases such as hepatitis, syphilis, gonorrhea and the human immunodeficiency virus, also known as Acquired Immune Deficiency Syndrome (AIDS). Consent obtained for release of information, pursuant to paragraph 2 of subsection A of this section, shall not be considered valid unless prior to consent, the person consenting to the release was given notice of the provisions for release of confidential information pursuant to this section. The provisions of this subsection shall not apply to written authorizations to disclose information to the Social Security Administration.

C. 1. The State Department of Health may convene a confidential meeting of a multidisciplinary team for recommendation on school placement of a student who is infected with the human immunodeficiency virus. The multidisciplinary team shall include, but not be limited to the following:

a. the parent, parents, legal representative, or legal guardian or legal custodian of the student;

b. the physician of the student;

c. a representative from the superintendent's office of the affected school district;

d. a representative from the State Department of Education; and

e. a representative from the State Department of Health.

Each member of the team shall be responsible for protecting the confidentiality of the student and any information made available to such person as a member of the team. The multidisciplinary team shall be exempt from the requirements of Sections 301 through 314 of Title 25 of the Oklahoma Statutes and Sections 24A.1 through 24A.19 of Title 51 of the Oklahoma Statutes.

2. Each member of the local school board having jurisdiction over the student shall also be responsible for protecting the confidentiality of the student and any information made available to such person as a school board member.

D. The State Department of Health may convene a confidential meeting of a multidisciplinary advisory committee to make recommendations regarding the practice of health care workers who are infected with the human immunodeficiency virus (HIV) or hepatitis B (HBV), who may be performing exposure-prone procedures. The membership of the multidisciplinary advisory committee shall include, but not be limited to, the following:

1. The Commissioner of Health or her designee;

2. Legal counsel to the Commissioner of Health;

3. The state epidemiologist or his designee;

4. An infectious disease specialist with expertise in HIV/HBV infection; and

5. Two practicing health care workers from the same discipline as the HIV/HBV-infected health care worker.

In addition, the health care worker being discussed, and/or an advocate, and the personal physician of the health care worker being discussed shall be invited to the multidisciplinary advisory committee meeting. Discussion of the case shall be made without using the actual name of the health care worker. Each member of the multidisciplinary advisory committee shall be responsible for protecting the confidentiality of the HIV/HBV-infected health care worker and the confidentiality of any information made available to such person as a member of the multidisciplinary advisory

committee. The multidisciplinary advisory committee shall be exempt from the requirements of the Oklahoma Open Meeting Act and the Oklahoma Open Records Act.

E. Upon advice of the multidisciplinary advisory committee, the Commissioner of Health, or her designee, may notify an appropriate official at the health care facility where the HIV/HBV-infected health care worker practices that said health care worker is seropositive for HIV and/or HBV. Notification shall be made only when necessary to monitor the ability of the HIV/HBV-infected health care worker to comply with universal precautions and appropriate infection control practices, and/or to monitor the ongoing functional capacity of the health care worker to perform his or her duties. Notification shall occur through one of the following officials:

1. The facility administrator;

2. The hospital epidemiologist;

3. The chairman of the infection control committee of the facility; or

4. The medical chief of staff of the facility.

F. If the HIV/HBV-infected health care worker fails or refuses to comply with the recommendations of the multidisciplinary advisory committee, the Commissioner of Health, or her designee, may take such actions as may be required to perform the duties imposed by the laws of the State of Oklahoma, and may advise the appropriate licensing board.

G. Any person who negligently, knowingly or intentionally discloses or fails to protect medical or epidemiological information classified as confidential pursuant to this section, upon conviction, shall be guilty of a misdemeanor punishable by the imposition of a fine of not less than One Thousand Dollars ($1,000.00) or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

H. Any person who negligently, knowingly or intentionally discloses or fails to protect medical or epidemiological information classified as confidential pursuant to this section shall be civilly liable to the person who is the subject of the disclosure for court costs, attorney fees, exemplary damages and all actual damages, including damages for economic, bodily or psychological harm which is proximately caused by the disclosure. **(63-1-502.2)**

Section 831. Use of Social Security Numbers Prohibited - Exceptions.

A. No state agency, board, commission or other unit or subdivision of state government shall request or require, except as otherwise required by law, that any person reveal the social security number of such person in order to obtain services or assistance, nor shall any state agency, board, commission or other unit or subdivision of state government use, for any purpose, numbers which correspond to the social security number of any person, except as otherwise required by law. Provided that any state agency, board, commission, unit or subdivision of state government using social security numbers for a particular purpose prior to January 1, 1974, may continue to use and require social security numbers for that purpose only and provided, further, that the provisions of Section 3101 et seq. of this title shall not be construed to prohibit the use or requirement of disclosure of one's social security number if the use of the number is related to the Social Security Administration or benefits thereunder, or, subject to the provisions of Section 1-311.1 of Title 63 of the Oklahoma Statutes, to prohibit the use or requirement of disclosure of the social security numbers of the mother and father by the Vital Records Section of the State Department of Health in the administration of the issuance of birth records.

B. The provisions of this section shall not be construed to prohibit the Oklahoma Tax Commission from requiring the disclosure by any person of his or her social security number in order to administer any state tax law, as defined by Section 202 of Title 68 of the Oklahoma Statutes or in order for the State Treasurer to administer any provision of the Uniform Unclaimed Property Act, if such administration requires the Tax Commission or State Treasurer to obtain the social security number of any person.

C. The provisions of this section shall not prohibit the State Department of Education or a board of education of a school district from requesting any student who wishes to enroll in or is enrolled in any public school in this state to disclose the social security account number of the student in order for the Department to administer any provision

of the Oklahoma School Testing Program Act, for the collection of appropriate and necessary data pursuant to the Oklahoma Educational Indicators Program, for the purpose of determining student enrollment, to establish a mobility rate or for the allocation of State Aid Formula and midyear adjustment in funding for student growth. The State Department of Education or a board of education of a school district shall not deny to any student any right, benefit, or privilege provided by law because of the refusal by the student to disclose the social security account number of the student. If the State Department of Education or a board of education of a school district requests a student to disclose the student's social security account number, the State Department of Education or a board of education of a school district shall inform the student by what statutory or other authority such number is solicited and what uses will be made of the number.

D. The State Board of Education is authorized to develop an alternative accountability system for tracking students to administer any provision of the Oklahoma School Testing Program Act, for the collection of appropriate and necessary data pursuant to the Oklahoma Educational Indicators Program, for the purpose of determining student enrollment, to establish a mobility rate or for the allocation of State Aid Formula and midyear adjustment in funding for student growth. The accountability system shall be developed only if, in the determination of the Board, the provisions of subsection C of this section are not sufficient to allow for the adequate implementation of the provisions of the Oklahoma School Testing Program Act or the Oklahoma Educational Indicators Program. **(74-3111)**

Section 831.1. Serving Children after Detention or Arrest.

Any child under eighteen (18) years of age who is a legal resident or the child of legal residents of the State of Oklahoma who is detained, held or arrested for any offense pursuant to any provision of the Juvenile Code or Criminal Code of this state, including such persons subject to adult prosecution, youthful offender proceedings, certification as an adult, reverse certification or juvenile proceedings, shall be identified within seventy-two (72) hours of such detention or arrest for educational needs and shall be afforded such educational opportunities by the State Department of Education without delay while in such facility or jail, including city, county, and state jails, holding facilities and juvenile or correctional institutions. **(10A-2-5-301)**

Section 831.2. Juvenile Justice Public Works Program Immunity.

A. This act shall be known and may be cited as the "Juvenile Justice Public Works Act".

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G. 1. All state and local government agencies, nonprofit organizations, community service agencies, educational programs and other treatment programs are immune from liability for torts committed by or against any eligible juvenile or youthful offender assigned to the Juvenile Justice Public Works Program, except that the Office of Juvenile Affairs shall provide basic or necessary medical and dental care to the juvenile or youthful offenders placed in the program in such instances.

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(10A-2-7-802)

Section 832. Oklahoma Minor Identification Act.

Sections 1 through 5 of this act shall be known and may be cited as the "Oklahoma Minor Identification Act". **(10-1629)**

Section 833. Definitions.

For purposes of the Oklahoma Minor Identification Act.

1. "Fingerprint" means the impression of the lines upon the fingertip taken with ink and placed upon a paper or plastic card for the purpose of identification;

2. "Local law enforcement agency" means the office of the county sheriff or a department of a municipality authorized by law or ordinance with the duties to maintain public order, make arrests, and enforce the criminal laws of this state or municipal ordinances;

3. "Minor or child" means a person under eighteen (18) years of age; and

4. "Parent" means the natural or adoptive parent who has legal custody of the minor. **(10-1630)**

Section 834. Fingerprints - Identification Cards.

A. Upon request of a parent, legal guardian or legal custodian of a minor and the presentation of the minor at a local law enforcement agency, the local law enforcement agency shall take a complete set of fingerprints of the minor and issue a fingerprint identification card to the parent, legal guardian, or legal custodian which shall contain the fingerprints of such minor.

B. The local law enforcement agency taking the fingerprints and issuing a fingerprint identification card shall use forms and cards provided by the Oklahoma State Bureau of Investigation. **(10-1631)**

Section 835. Legislative Intent.

It is the intent of the Legislature that the children of this state be provided certain safeguards. It is important that children entering the school system of this state as well as children already in the school system be fingerprinted in accordance with the provisions of the Oklahoma Minor Identification Act and said fingerprints be used for locating or identifying any child in this state or any other state who is reported lost, missing, kidnaped, or killed. **(10-1632)**

Section 836. Implementation and Administration of Act.

A. Each board of education may develop a fingerprinting program for students within the district. The principal or chief administrative officer of a nonpublic school in this state may develop a fingerprinting program for students of the school. If developed, the program shall be developed in conjunction with local law enforcement agencies having jurisdiction within the school district or where the nonpublic school is located or in conjunction with any organization providing such services on a voluntary basis. Such local law enforcement agencies shall cooperate fully with the board of education or nonpublic school in the development of its fingerprinting program.

B. Such fingerprinting program shall be developed for the sole purpose of providing a means by which a missing child might be located or identified and shall be operated on the following basis:

1. No student shall be required to participate in the program.

2. The Oklahoma State Bureau of Investigation shall provide fingerprint cards upon request of any school, organization, or local law enforcement agency who requests such cards to implement the provisions of the Oklahoma Minor Identification Act;

3. In order for a student to participate in the program, the parent, legal guardian, or legal custodian of the student shall authorize the student's participation by signing a form that shall be developed for the program by the board of education of a public school or by the principal or chief administrative officer of the nonpublic school. No student shall be fingerprinted unless a signed authorization form is in the possession of school officials;

4. The fingerprinting of students shall be performed by members of the local law enforcement agencies or members of any organization volunteering to provide such service;

5. Two copies of a student's fingerprints shall be made. One copy shall be given to the student's parent, legal guardian, or legal custodian and one copy shall be retained in the student's records by the school and transferred with other school records of the student until the student's eighteenth birthday. The copy of the student's fingerprints retained by the school shall be destroyed by such school on the student's eighteenth birthday;

6. The name, sex, hair and eye color, height, weight, and date and place of birth of the student shall be indicated on the fingerprint card;

7. The fingerprint card shall include in a conspicuous place on the card a statement that the card may be used for identification purposes only and may not be used in any juvenile or criminal investigation or proceeding conducted against the student. A fingerprint card prepared pursuant to the Oklahoma Minor Identification Act may be used by a law enforcement agency only to help identify a student who is lost, missing, kidnapped, or killed; and

8. The fingerprinting program developed pursuant to this section shall be offered on a periodic basis. Parents, legal guardians, and legal custodians in the districts or in the communities served by the schools shall be notified at least two (2) weeks prior to the date set for commencement of the fingerprinting program. These notifications may be given by means of memoranda or letters sent to such parents, legal guardians, or legal custodians. **(10-1633)**

Section 837. Short Title.

This act shall be known and may be cited as the "Oklahoma Higher Learning Access Act". **(70-2601)**

Section 838. Purpose.

There is hereby created the Oklahoma Higher Learning Access Program. The program shall also be known as "Oklahoma's Promise". The purpose of the program is to provide an award to students who meet the criteria set forth in the Oklahoma Higher Learning Access Act, Section 2601 et seq. of this title, and who are pursuing studies in this state leading to an associate or baccalaureate degree or who are pursuing studies in a postsecondary vocational-technical program or course offered pursuant to a duly approved cooperative agreement between a technology center school and an institution of The Oklahoma State System of Higher Education, and who are in good academic standing in the institution of higher education or technology center school in which enrolled, to relieve them of the burden of paying nonguaranteed resident tuition at institutions of The Oklahoma State System of Higher Education, to relieve them of the burden of paying tuition for enrollment in postsecondary programs of the technology center districts, or to relieve them of some portion of the burden of paying such fees or tuition, pursuant to the provisions of this act, as may be required of enrollees at private institutions of higher education which are accredited pursuant to Section 4103 of this title. The further purpose of this program is to establish and maintain a variety of support services whereby a broader range of the general student population of this state will be prepared for success in postsecondary endeavors. **(70-2602)**

Section 839. Eligibility Requirements. (Version 1)

A. Except as otherwise provided for in subsection B of this section and elsewhere in this section, to be eligible to participate in the Oklahoma Higher Learning Access Program and to qualify for an award which includes payment of an amount equivalent to resident tuition or other tuition pursuant to Section 2604 of this title for the first semester or other academic unit of postsecondary enrollment, a student shall:

1. Be a resident of this state or be enrolled in a school district located in this state that serves students who reside in both this state and an adjacent state pursuant to a contract as authorized in Section 5-117.1 of this title;

2. Be a United States citizen or lawfully present in the United States. A student who is not a United States citizen or lawfully present in the United States shall not be eligible to participate in the Oklahoma Higher Learning Access Program and to qualify for an award notwithstanding the provisions of Section 3242 of this title. The provisions of this paragraph shall not apply to any student who was enrolled in the Oklahoma Higher Learning Access Program prior to the end of the 2006-2007 school year;

3. Have a record of satisfactory compliance with agreements executed pursuant to Section 2605 of this title;

4. a. have graduated within the previous three (3) years from a high school accredited by the State Board of Education, or the Oklahoma School of Science and Mathematics with a minimum 2.5 cumulative grade point average on a 4.0 scale for all work attempted in grades nine through twelve,

b. have graduated within the previous three (3) years from a high school not accredited by the State Board of Education with a minimum 2.5 cumulative grade point average on a 4.0 scale for all work attempted in grades nine through twelve and have achieved a composite score of 22 or higher on the ACT test, or

c. have satisfactorily completed within the previous three (3) years an educational program that was provided through a means other than a public or private school and have achieved a composite score of 22 or higher on the ACT test;

5. Have completed the curricular requirements for admission to an institution within The Oklahoma State System of Higher Education and one additional unit or set of competencies in a course that meets college admission requirements. The curriculum requirements shall include two units or sets of competencies in foreign or non-English language or technology courses that meet the college admission requirements and one unit or set of competencies of a fine arts course. Students shall also have attained a 2.5 grade point average in the core curriculum courses. Students who attended a high school which did not offer all the core curriculum courses or students who were educated by other means and were not offered all the core curriculum courses shall be allowed to satisfy this curriculum requirement by participating in a program approved by the State Regents for remediation of high school curricular deficiencies;

6. Have satisfied admission standards as determined by the Oklahoma State Regents for Higher Education for first-time-entering students for the appropriate type of institution, or, if attending a private institution, have satisfied admission standards as determined by the private institution. No student participating in the Oklahoma Higher Learning Access Program shall be admitted into an institution of higher education by special admission standards;

7. Have secured admission to, and enrolled in, an institution which is a member of The Oklahoma State System of Higher Education, a postsecondary vocational-technical program offered pursuant to a duly approved cooperative agreement between a technology center school and an institution of The Oklahoma State System of Higher Education, or a private institution of higher learning located within this state and accredited pursuant to Section 4103 of this title; and

8. a. have established financial need according to the provisions of subsection D of Section 2605 of this title and standards and provisions promulgated by the Oklahoma State Regents for Higher Education,

b. if the student was adopted between birth and twelve (12) years of age while in the permanent custody of the Department of Human Services, in the court-ordered custody of a licensed private nonprofit child-placing agency, or federally recognized Indian tribe, as defined by the federal Indian Child Welfare Act, have established financial need according to the provisions of paragraph 1 of subsection E of Section 2605 of this title and standards and provisions promulgated by the Oklahoma State Regents for Higher Education, or

c. if the student was adopted between thirteen (13) and seventeen (17) years of age while in the permanent custody of the Department of Human Services, in the court-ordered custody of a licensed private nonprofit child-placing agency, or federally recognized Indian tribe, as defined by the federal Indian Child Welfare Act, have established financial need according to the provisions of paragraph 2 of subsection E of Section 2605 of this title and standards and provisions promulgated by the Oklahoma State Regents for Higher Education.

B. 1. A student shall be eligible to participate in the Oklahoma Higher Learning Access Program and to qualify for an award which includes payment of an amount equivalent to resident tuition or other tuition pursuant to Section 2604 of this title for the first semester or other academic unit of postsecondary enrollment if the student meets all of the following criteria:

a. is a child of any person killed after January 1, 2000, in the line of duty in any branch of the United States Armed Forces or who died after January 1, 2000, as a result of an injury sustained while in the line of duty in any branch of the United States Armed Forces and the person who was killed or died filed an individual or joint Oklahoma income tax return for the tax year prior to the year during which the person was killed or died,

b. is a resident of this state or is enrolled in a school district located in this state that serves students who reside in both this state and an adjacent state pursuant to a contract as authorized in Section 5-117.1 of this title,

c. enrolls in an institution within The Oklahoma State System of Higher Education prior to reaching the age of twenty-one (21),

d. has satisfied admission standards as determined by the Oklahoma State Regents for Higher Education for first-time-entering students for the appropriate type of institution, or, if attending a private institution, has satisfied admission

standards as determined by the private institution. No student participating in the Oklahoma Higher Learning Access Program shall be admitted into an institution of higher education by special admission standards,

e. has secured admission to, and enrolled in, an institution which is a member of The Oklahoma State System of Higher Education, a postsecondary vocational-technical program offered pursuant to a duly approved cooperative agreement between a technology center school and an institution of The Oklahoma State System of Higher Education, or a private institution of higher learning located within this state and accredited pursuant to Section 4103 of this title, and

f. executes an agreement pursuant to subsection C of Section 2605 of this title.

2. A student who is eligible to participate in the program pursuant to this subsection shall not be required to meet the eligibility requirements set forth in subsection A of this section.
C. To retain eligibility while pursuing the program of higher learning in which enrolled, the student shall:

1. Achieve a minimum cumulative grade point average of 2.0 on a 4.0 scale or its equivalent for courses taken through the student's sophomore year and achieve a minimum grade point average of 2.5 on a 4.0 scale or its equivalent for courses taken during the student's junior year and thereafter. The provisions of this paragraph shall not apply to any student who has received an Oklahoma Higher Learning Access Program benefit award prior to the 2010-2011 school year;

2. Maintain good academic standing and satisfactory academic progress according to standards of the Oklahoma State Regents for Higher Education;

3. Maintain satisfactory academic progress as required for eligibility for federal Title IV student financial aid programs. The provisions of this paragraph shall become effective for the 2012-2013 school year;

4. Comply with the standards related to maintenance of eligibility as promulgated by the Oklahoma State Regents for Higher Education; and

5. Refrain from conduct that leads to expulsion or suspension of more than one semester from an institution of higher education. A student who violates the provisions of this paragraph shall permanently lose eligibility for program benefits. The provisions of this paragraph shall become effective January 1, 2008.

D. The Oklahoma State Regents for Higher Education and the State Board of Career and Technology Education shall promulgate rules relating to maintenance of eligibility under this act by a student.

E. It is the intent of the Legislature that students in the ninth grade for the 1992-93 school year who are determined to be eligible Oklahoma Higher Learning Access students pursuant to this act shall be the first students eligible for benefits from the Oklahoma Higher Learning Access Trust Fund.

F. The Oklahoma State Regents for Higher Education are authorized to study, develop and propose criteria for determining award eligibility based upon the completion of seven (7) semesters of high school coursework by a student. **(70-2603)**

Note: Amended by HB 1343, Sec. 1, effective July 1, 2011 and HB 1421, Sec. 1 of the 2011 Reg. Sess.

Section 839. Eligibility Requirements. (Version 2)

A. Except as otherwise provided for in this section, to be eligible to participate in the Oklahoma Higher Learning Access Program and to qualify for an award which includes payment of an amount equivalent to resident tuition or other tuition pursuant to Section 2604 of this title for the first semester or other academic unit of postsecondary enrollment, a student shall:

1. Be a resident of this state or be enrolled in a school district located in this state that serves students who reside in both this state and an adjacent state pursuant to a contract as authorized in Section 5-117.1 of this title;

2. Be a United States citizen or lawfully present in the United States. A student who is not a United States citizen or lawfully present in the United States shall not be eligible to participate in the Oklahoma Higher Learning Access Program and to qualify for an award notwithstanding the provisions of Section 3242 of this title. The provisions of this paragraph shall not apply to any student who was enrolled in the Oklahoma Higher Learning Access Program prior to the end of the 2006-2007 school year;

3. Have a record of satisfactory compliance with agreements executed pursuant to Section 2605 of this title;

4. a. have graduated within the previous three (3) years from a high school accredited by the State Board of Education, or the Oklahoma School of Science and Mathematics with a minimum 2.5 cumulative grade point average on a 4.0 scale for all work attempted in grades nine through twelve,
b. have graduated within the previous three (3) years from a high school not accredited by the State Board of Education with a minimum 2.5 cumulative grade point average on a 4.0 scale for all work attempted in grades nine through twelve and have achieved a composite score of 22 or higher on the ACT test, or

c. have satisfactorily completed within the previous three (3) years an educational program that was provided through a means other than a public or private school and have achieved a composite score of 22 or higher on the ACT test;

5. Have completed the curricular requirements for admission to an institution within The Oklahoma State System of Higher Education and one additional unit or set of competencies in a course that meets college admission requirements. The curriculum requirements shall include two units or sets of competencies in foreign or non-English language or technology courses that meet the college admission requirements and one unit or set of competencies of a fine arts course. Students shall also have attained a 2.5 grade point average in the core curriculum courses. Students who attended a high school which did not offer all the core curriculum courses or students who were educated by other means and were not offered all the core curriculum courses shall be allowed to satisfy this curriculum requirement by participating in a program approved by the State Regents for remediation of high school curricular deficiencies;

6. Have satisfied admission standards as determined by the Oklahoma State Regents for Higher Education for first-time-entering students for the appropriate type of institution, or, if attending a private institution, have satisfied admission standards as determined by the private institution. No student participating in the Oklahoma Higher Learning Access Program shall be admitted into an institution of higher education by special admission standards;

7. Have secured admission to, and enrolled in, an institution which is a member of The Oklahoma State System of Higher Education, a postsecondary vocational-technical program offered pursuant to a duly approved cooperative agreement between a technology center school and an institution of The Oklahoma State System of Higher Education, or a private institution of higher learning located within this state and accredited pursuant to Section 4103 of this title; and

8. a. have established financial need according to the provisions of subsection D of Section 2605 of this title and standards and provisions promulgated by the Oklahoma State Regents for Higher Education,

b. if the student was adopted between birth and twelve (12) years of age while in the permanent custody of the Department of Human Services, in the court-ordered custody of a licensed private nonprofit child-placing agency, or federally recognized Indian tribe, as defined by the federal Indian Child Welfare Act, have established financial need according to the provisions of paragraph 1 of subsection E of Section 2605 of this title and standards and provisions promulgated by the Oklahoma State Regents for Higher Education, or

c. if the student was adopted between thirteen (13) and seventeen (17) years of age while in the permanent custody of the Department of Human Services, in the court-ordered custody of a licensed private nonprofit child-placing agency, or federally recognized Indian tribe, as defined by the federal Indian Child Welfare Act, have established financial need according to the provisions of paragraph 2 of subsection E of Section 2605 of this title and standards and provisions promulgated by the Oklahoma State Regents for Higher Education.

B. To retain eligibility while pursuing the program of higher learning in which enrolled, the student shall:

1. Achieve a minimum cumulative grade point average of 2.0 on a 4.0 scale or its equivalent for courses taken through the student's sophomore year and achieve a minimum grade point average of 2.5 on a 4.0 scale or its equivalent

for courses taken during the student's junior year and thereafter. The provisions of this paragraph shall not apply to any student who has received an Oklahoma Higher Learning Access Program benefit award prior to the 2012-2013 school year;

2. Maintain good academic standing and satisfactory academic progress according to standards of the Oklahoma State Regents for Higher Education;

3. Maintain satisfactory academic progress as required for eligibility for federal Title IV student financial aid programs. The provisions of this paragraph shall become effective for the 2012-2013 school year;

4. Comply with the standards related to maintenance of eligibility as promulgated by the Oklahoma State Regents for Higher Education; and

5. Refrain from conduct that leads to expulsion or suspension of more than one semester from an institution of higher education. A student who violates the provisions of this paragraph shall permanently lose eligibility for program benefits. The provisions of this paragraph shall become effective January 1, 2008.

C. The Oklahoma State Regents for Higher Education and the State Board of Career and Technology Education shall promulgate rules relating to maintenance of eligibility under the Oklahoma Higher Learning Access Act by a student.

D. It is the intent of the Legislature that students in the ninth grade for the 1992-93 school year who are determined to be eligible Oklahoma Higher Learning Access students pursuant to the Oklahoma Higher Learning Access Act shall be the first students eligible for benefits from the Oklahoma Higher Learning Access Trust Fund.

E. The Oklahoma State Regents for Higher Education are authorized to study, develop and propose criteria for determining award eligibility based upon the completion of seven (7) semesters of high school coursework by a student. **(70-2603)**

Note: Amended by SB 610, Sec. 1 and HB 1421, Sec. 1 of the 2011 Reg. Sess.

Section 840. Awards.

A. Subject to the availability of funds, an amount equivalent to the nonguaranteed resident tuition for which an eligible Oklahoma Higher Learning Access Program student is obligated at an institution of The Oklahoma State System of Higher Education shall be awarded by allocation from the Oklahoma Higher Learning Access Trust Fund.

B. Subject to the availability of funds, for each eligible Oklahoma Higher Learning Access Program student enrolled at a private institution of higher learning located within this state and accredited pursuant to Section 4103 of this title, the Oklahoma State Regents for Higher Education shall award from the Oklahoma Higher Learning Access Trust Fund an amount equivalent to the amount of resident tuition for which the student would be eligible if the student were enrolled in a comparable program at a comparable institution of The Oklahoma State System of Higher Education. Comparability shall be determined by the State Regents.

C. Subject to the availability of funds, an amount equivalent to the tuition for any eligible Oklahoma Higher Learning Access Program student enrolled in a public postsecondary vocational-technical program or course for the purpose set forth in Section 2602 of this title shall be awarded by allocation from the Oklahoma Higher Learning Access Trust Fund. Provided, such allocation shall not exceed the amount a student would have received for comparable enrollment at a two-year institution within The Oklahoma State System of Higher Education.

D. 1. An award allowed by this section shall not be allowed for courses or other postsecondary units taken in excess of the requirements for completion of a baccalaureate program or taken more than five (5) years after the student's first semester of postsecondary enrollment. The Oklahoma State Regents for Higher Education may award the Oklahoma Higher Learning Access Program benefits for courses of postsecondary units taken more than five (5) years after the student's first semester of postsecondary enrollment only in hardship circumstances; provided, however, no Oklahoma Higher Learning Access Program participant may receive benefits beyond a cumulative time period of five (5) years.

2. The Oklahoma State Regents for Higher Education may award the Oklahoma Higher Learning Access Program benefits for a student's first semester or other academic unit of postsecondary enrollment taken more than three (3) years after the student graduates from high school or completes an educational program equivalent to high school graduation as authorized in Section 2603 of this title if the student is a member of the Armed Forces of the United States, the Reserve Corps of the Armed Forces of the United States, or the Oklahoma National Guard, and is ordered to active duty or active duty for special work or training and due to the duty commitment the student is unable to enroll prior to the end of the three-year period. Such three-year period shall be extended by the length of the term of duty.

3. The Oklahoma State Regents for Higher Education may establish a maximum limit on the number of courses or other postsecondary units to which Oklahoma Higher Learning Access Program benefits will apply.

4. An award for eligible Oklahoma Higher Learning Access Program students enrolled in cooperative programs pursuant to agreements between technology center schools and institutions of The Oklahoma State System of Higher Education shall be satisfied for both vocational-technical and college work in which enrolled pursuant to such cooperative program.

E. Benefits awarded under the Oklahoma Higher Learning Access Program shall be awarded to all eligible applicants without any limitation on the number of awards in any year other than the amount of funds available for the program and the number of eligible applicants. Subject to the provisions of subsection F of this section, if funds are not sufficient to provide awards for all eligible applicants, the Oklahoma State Regents for Higher Education shall make awards on the basis of need. Provided, the Oklahoma State Regents for Higher Education shall take into consideration other grants and scholarships received by an eligible applicant when making awards.

F. The Oklahoma State Regents for Higher Education may, at the time an award is made on behalf of an Oklahoma Higher Learning Access Program student, set aside in the Oklahoma Higher Learning Access Trust Fund funds for the full commitment made to such Higher Learning Access Program student. For all academic years, students who have previously received awards under the provisions of the Oklahoma Higher Learning Access Act, Section 2601 et seq. of this title, and who have continued at all times to fulfill the requirements for eligibility to receive awards provided pursuant to this program shall be given an absolute priority for continued financial support by the Oklahoma Higher Learning Access Program superior to any students who are applying for such benefits for the first time. **(70-2604)**

Section 841. Public Awareness Program - Student Agreements. (Version 1)

A. Each school year, every fifth- through ninth-grade student in the public and private schools of this state and students who are educated by other means and are in the equivalent of the fifth through ninth grade shall be apprised, together with the parent, custodial parent, or guardian of the student, of the opportunity for access to higher learning under the Oklahoma Higher Learning Access Program. The Oklahoma State Regents for Higher Education and the State Board of Education shall develop, promote, and coordinate a public awareness program to be utilized in making students and parents aware of the Oklahoma Higher Learning Access Program.

B. On a form provided by the Oklahoma State Regents for Higher Education, every public school district shall designate at least one Oklahoma Higher Learning Access Program contact person, who shall be a counselor or teacher, at each public school site in this state in which eighth-, ninth- or tenth-grade classes are taught. When requested by the State Regents, the State Board of Education shall assist the State Regents to ensure the designation of contact persons. Private schools shall also designate at least one school official as a contact person. For students who are educated by other means, a parent or guardian or other person approved by the State Regents shall be designated the contact person.

C. 1. Students who qualify on the basis of financial need according to subsection D or E of this section or who meet the eligibility qualification set forth in subparagraph a of paragraph 1 of subsection B of Section 2603 of this title prior to entering the tenth grade or prior to reaching the age of fifteen (15) and the standards and provisions promulgated by the Oklahoma State Regents for Higher Education shall be given the opportunity throughout the eighth-, ninth-, and tenth-grade years, for students enrolled in a public or private school, or between the ages of thirteen (13) and fifteen (15), for students who are educated by other means, to enter into participation in the program by agreeing to, throughout the remainder of their school years or educational program:

a. attend school or an educational program regularly and do homework regularly,

b. refrain from substance abuse,

c. refrain from commission of crimes or delinquent acts,

d. have school work and school records reviewed by mentors designated pursuant to the program,

e. provide information requested by the Oklahoma State Regents for Higher Education or the State Board of Education, and

f. participate in program activities.

2. Students who meet the eligibility qualification set forth in subparagraph a of paragraph 1 of subsection B of Section 2603 of this title after completing the tenth grade or after reaching the age of sixteen (16) shall be given the opportunity prior to reaching the age of twenty-one (21) to enter into participation in the program and shall execute an agreement with provisions as determined by the Oklahoma State Regents for Higher Education.

3. The contact person shall maintain the agreements, which shall be executed on forms provided by the Oklahoma State Regents for Higher Education and managed according to regulations promulgated by the Oklahoma State Regents for Higher Education, and the contact person shall monitor compliance of the student with the terms of the agreement. The Oklahoma State Regents for Higher Education are authorized to process student agreements and verify compliance with the agreements. Students failing to comply with the terms of the agreement shall not be eligible for the awards provided in Section 2604 of this title.

D. Except as otherwise provided for in subsection E of this section and except for students who qualify pursuant to subsection B of Section 2603 of this title, a student shall not be found to be in financial need for purposes of the Oklahoma Higher Learning Access Program if:

1. At the time the student applies for participation in the Program during the eighth, ninth or tenth grade for students enrolled in a public or private school, or between the ages of thirteen (13) and fifteen (15), for students who are educated by other means, the income from taxable and nontaxable sources of the student's parent(s) exceeds Fifty Thousand Dollars ($50,000.00) per year; and

2. At the time the student begins postsecondary education and prior to receiving any Oklahoma Higher Learning Access Program benefit award, the income from taxable and nontaxable sources of the student’s parent(s) exceeds One Hundred Thousand Dollars ($100,000.00) per year.

The determination of financial qualification as set forth in this paragraph shall be based on the income of the student, not the income of the parent(s), if a student:

a. is determined to be independent of the student's parents for federal financial aid purposes,

b. was in the permanent custody of the Department of Human Services at the time the student enrolled in the program, or

c. was in the court-ordered custody of a federally recognized Indian tribe, as defined by the federal Indian Child Welfare Act, at the time the student enrolled in the program.

The provisions of this paragraph shall not apply to any student who has received an Oklahoma Higher Learning Access Program benefit award prior to the 2012-2013 school year.

E. 1. A student who was adopted between birth and twelve (12) years of age while in the permanent custody of the Department of Human Services, in the court-ordered custody of a licensed private nonprofit child-placing agency, or federally recognized Indian tribe, as defined by the federal Indian Child Welfare Act, shall not be found to be in financial need for purposes of the Oklahoma Higher Learning Access Program if at the time the student begins postsecondary education and prior to receiving any Oklahoma Higher Learning Access Program benefit award, the income from taxable and nontaxable sources of the student’s parent(s) exceeds One Hundred Fifty Thousand Dollars ($150,000.00) per year. The provisions of this paragraph shall not apply to any student who has received an Oklahoma Higher Learning Access Program benefit award prior to the 2012-2013 school year.

2. A student who was adopted between thirteen (13) and seventeen (17) years of age while in the permanent custody of the Department of Human Services, in the court-ordered custody of a licensed private nonprofit child-placing agency, or federally recognized Indian tribe, as defined by the federal Indian Child Welfare Act, shall not be found to be in financial need for purposes of the Oklahoma Higher Learning Access Program if at the time the student begins postsecondary education and prior to receiving any Oklahoma Higher Learning Access Program benefit award, the income from taxable and nontaxable sources of the student's parent(s) exceeds Two Hundred Thousand Dollars ($200,000.00) per year. The provisions of this paragraph shall not apply to any student who has received an Oklahoma Higher Learning Access Program benefit award prior to the 2012-2013 school year.

3. Except for students who qualify pursuant to subsection B of Section 2603 of this title, the determination of financial qualification as set forth in this subsection shall be based on the income of the student, not the income of the parent(s), if the student is determined to be independent of the student's parents for federal financial aid purposes. A determination of financial qualification shall not be required for the student who meets the criteria set forth in this subsection at the time the student applies for participation in the program. The provisions of this paragraph shall not apply to any student who has received an Oklahoma Higher Learning Access Program benefit award prior to the 2008-2009 school year.

F. The financial qualification of a student as set forth in subsections D and E of this section shall be certified by the contact person or by the Oklahoma State Regents for Higher Education on the agreement form provided by the Oklahoma State Regents for Higher Education. The form shall be retained in the permanent record of the student and a copy forwarded to the Oklahoma State Regents for Higher Education.

G. Agreements shall be witnessed by the parent, custodial parent, or guardian of the student, who shall further agree to:

1. Assist the student in achieving compliance with the agreements;

2. Confer, when requested to do so, with the school contact person, other school personnel, and program mentors;

3. Provide information requested by the Oklahoma State Regents for Higher Education or the State Board of Education; and

4. Assist the student in completing forms and reports required for program participation, making applications to institutions and schools of higher learning, and filing applications for student grants and scholarships.

H. Students who are enrolled in a school district located in this state that serves students who reside in both this state and an adjacent state pursuant to a contract as authorized in Section 5-117.1 of this title, are in the eleventh and twelfth grades during the 2006-2007 school year, and who were denied participation in the program shall be allowed to enter or reenter into participation in the program by entering into agreements as set forth in subsections C and D of this section by June 1, 2008.

I. The Oklahoma State Regents for Higher Education shall promulgate rules for the determination of student compliance with agreements made pursuant to this section.

J. The Oklahoma State Regents for Higher Education shall designate personnel to coordinate tracking of program records for the years when students participating in the program are still in the schools or are being educated by other means, provide staff development for contact persons in the schools, and provide liaison with the State Board of Education and local organizations and individuals participating in the program.

K. The school district where an Oklahoma Higher Learning Access Program student is enrolled when the student begins participation in the program and any subsequent school district where the student enrolls shall forward information regarding participation by the student in the program to a school to which the student transfers upon the request of the school for the records of the student.

L. Students participating in the Oklahoma Higher Learning Access Program shall provide their social security number or their student identification number used by their school to the Oklahoma State Regents for Higher Education. The Regents shall keep the numbers confidential and use them only for administrative purposes. **(70-2605)**

Note: Amended by HB 1343, Sec. 3 of the 2011 Reg. Sess. Effective July 1, 2011.

Section 841. Public Awareness Program - Student Agreements. (Version 2)

A. Each school year, every fifth- through ninth-grade student in the public and private schools of this state and students who are educated by other means and are in the equivalent of the fifth through ninth grade shall be apprised, together with the parent, custodial parent, or guardian of the student, of the opportunity for access to higher learning under the Oklahoma Higher Learning Access Program. The Oklahoma State Regents for Higher Education and the State Board of Education shall develop, promote, and coordinate a public awareness program to be utilized in making students and parents aware of the Oklahoma Higher Learning Access Program.

B. On a form provided by the Oklahoma State Regents for Higher Education, every public school district shall designate at least one Oklahoma Higher Learning Access Program contact person, who shall be a counselor or teacher, at each public school site in this state in which eighth-, ninth- or tenth-grade classes are taught. When requested by the State Regents, the State Board of Education shall assist the State Regents to ensure the designation of contact persons. Private schools shall also designate at least one school official as a contact person. For students who are educated by other means, a parent or guardian or other person approved by the State Regents shall be designated the contact person.

C. Students who qualify on the basis of financial need according to subsections D or E of this section and the standards and provisions promulgated by the Oklahoma State Regents for Higher Education shall be given the opportunity throughout the eighth-, ninth-, and tenth-grade years, for students enrolled in a public or private school, or between the ages of thirteen (13) and fifteen (15), for students who are educated by other means, to enter into participation in the program by agreeing to, throughout the remainder of their school years or educational program:

1. Attend school or an educational program regularly and do homework regularly;

2. Refrain from substance abuse;

3. Refrain from commission of crimes or delinquent acts;

4. Have school work and school records reviewed by mentors designated pursuant to the program;

5. Provide information requested by the Oklahoma State Regents for Higher Education or the State Board of Education; and

6. Participate in program activities.

The contact person shall maintain the agreements, which shall be executed on forms provided by the Oklahoma State Regents for Higher Education and managed according to regulations promulgated by the Oklahoma State Regents for Higher Education, and the contact person shall monitor compliance of the student with the terms of the agreement. The Oklahoma State Regents for Higher Education are authorized to process student agreements and verify compliance with the agreements. Students failing to comply with the terms of the agreement shall not be eligible for the awards provided in Section 2604 of this title.

D. Except as otherwise provided for in subsection E of this section, a student shall not be found to be in financial need for purposes of the Oklahoma Higher Learning Access Program if:

1. At the time the student applies for participation in the Program during the eighth, ninth or tenth grade for students enrolled in a public or private school, or between the ages of thirteen (13) and fifteen (15), for students who are educated by other means, the income from taxable and nontaxable sources of the student's parent(s) exceeds Fifty Thousand Dollars ($50,000.00) per year; and

2. At the time the student begins postsecondary education and prior to receiving any Oklahoma Higher Learning Access Program benefit award, the federal adjusted gross income of the student's parent(s) exceeds One Hundred Thousand Dollars ($100,000.00) per year.

The determination of financial qualification as set forth in this paragraph shall be based on the income of the student, not the income of the parent(s), if a student:

a. is determined to be independent of the student's parents for federal financial aid purposes,

b. was in the permanent custody of the Department of Human Services at the time the student enrolled in the program, or

c. was in the court-ordered custody of a federally recognized Indian tribe, as defined by the federal Indian Child Welfare Act, at the time the student enrolled in the program.

The provisions of this paragraph shall not apply to any student who has received an Oklahoma Higher Learning Access Program benefit award prior to the 2012-2013 school year.

E. 1. A student who was adopted between birth and twelve (12) years of age while in the permanent custody of the Department of Human Services, in the court-ordered custody of a licensed private nonprofit child-placing agency, or federally recognized Indian tribe, as defined by the federal Indian Child Welfare Act, shall not be found to be in financial need for purposes of the Oklahoma Higher Learning Access Program if at the time the student begins postsecondary education and prior to receiving any Oklahoma Higher Learning Access Program benefit award, the federal adjusted gross income of the student's parent(s) exceeds One Hundred Fifty Thousand Dollars ($150,000.00) per year. The provisions of this paragraph shall not apply to any student who has received an Oklahoma Higher Learning Access Program benefit award prior to the 2012-2013 school year.

2. A student who was adopted between thirteen (13) and seventeen (17) years of age while in the permanent custody of the Department of Human Services, in the court-ordered custody of a licensed private nonprofit child-placing agency, or federally recognized Indian tribe, as defined by the federal Indian Child Welfare Act, shall not be found to be in financial need for purposes of the Oklahoma Higher Learning Access Program if at the time the student begins postsecondary education and prior to receiving any Oklahoma Higher Learning Access Program benefit award, the federal adjusted gross income of the student's parent(s) exceeds Two Hundred Thousand Dollars ($200,000.00) per year. The provisions of this paragraph shall not apply to any student who has received an Oklahoma Higher Learning Access Program benefit award prior to the 2012-2013 school year.

3. The determination of financial qualification as set forth in this subsection shall be based on the income of the student, not the income of the parent(s), if the student is determined to be independent of the student's parents for federal financial aid purposes. A determination of financial qualification shall not be required for the student who meets the criteria set forth in this subsection at the time the student applies for participation in the program. The provisions of this paragraph shall not apply to any student who has received an Oklahoma Higher Learning Access Program benefit award prior to the 2008-2009 school year.

F. The financial qualification of a student as set forth in subsections D and E of this section shall be certified by the contact person or by the Oklahoma State Regents for Higher Education on the agreement form provided by the Oklahoma State Regents for Higher Education. The form shall be retained in the permanent record of the student and a copy forwarded to the Oklahoma State Regents for Higher Education.

G. Agreements shall be witnessed by the parent, custodial parent, or guardian of the student, who shall further agree to:

1. Assist the student in achieving compliance with the agreements;

2. Confer, when requested to do so, with the school contact person, other school personnel, and program mentors;

3. Provide information requested by the Oklahoma State Regents for Higher Education or the State Board of Education; and

4. Assist the student in completing forms and reports required for program participation, making applications to institutions and schools of higher learning, and filing applications for student grants and scholarships.

H. Students who are enrolled in a school district located in this state that serves students who reside in both this state and an adjacent state pursuant to a contract as authorized in Section 5-117.1 of this title, are in the eleventh and twelfth grades during the 2006-2007 school year, and who were denied participation in the program shall be allowed

to enter or reenter into participation in the program by entering into agreements as set forth in subsections C and D of this section by June 1, 2008.

I. The Oklahoma State Regents for Higher Education shall promulgate rules for the determination of student compliance with agreements made pursuant to this section.

J. The Oklahoma State Regents for Higher Education shall designate personnel to coordinate tracking of program records for the years when students participating in the program are still in the schools or are being educated by other means, provide staff development for contact persons in the schools, and provide liaison with the State Board of Education and local organizations and individuals participating in the program.

K. The school district where an Oklahoma Higher Learning Access Program student is enrolled when the student begins participation in the program and any subsequent school district where the student enrolls shall forward information regarding participation by the student in the program to a school to which the student transfers upon the request of the school for the records of the student.

L. Students participating in the Oklahoma Higher Learning Access Program shall provide their social security number or their student identification number used by their school to the Oklahoma State Regents for Higher Education. The Regents shall keep the numbers confidential and use them only for administrative purposes. **(70-2605)**

Note: Amended by SB 610, Sec. 2 of the 2011 Reg. Sess.

Section 841.1 - 841.4. Repealed.

Section 842. Driver Education.

A. Unless a legal custodial parent or legal guardian has filed an objection to licensure pursuant to Section 6-103.1 of this title, any person under eighteen (18) years of age who is in compliance with or not subject to Section 6-107.3 of this title may be permitted to operate:

1. A Class D motor vehicle under the graduated driver license provisions prescribed in subsections B through E of this section;

2. A motorcycle under the provisions prescribed in subsection H of this section; or

3. A farm vehicle under the provisions prescribed in subsection I of this section.

B. Any person who is at least fifteen (15) years of age may drive during a session in which the driver is being instructed in a driver education course, as set out in subparagraphs a, b, c and d of paragraph 1 of subsection C of this section, by a certified driver education instructor who is seated in the right front seat of the motor vehicle.

C. Any person:

1. Who is at least fifteen and one-half (15 1/2) years of age and is currently receiving instruction in or has successfully completed driver education. For purposes of this section, the term “driver education” shall mean:

a. a prescribed secondary school driver education course, as provided for in Sections 19-113 through 19-121 of Title 70 of the Oklahoma Statutes,

b. a driver education course, certified by the Department of Public Safety, from a parochial, private, or other nonpublic secondary school,

c. a commercial driver training course, as defined by Sections 801 through 808 of this title, or

d. a parent-taught driver education course, certified by the Department of Public Safety. The Department shall promulgate rules for any parent-taught driver education course; or

2. Who is at least sixteen (16) years of age,

may, upon successfully passing all parts of the driver license examination administered by the Department except the driving examination, be issued a learner permit which will grant the permittee the privilege to operate a Class D motor vehicle upon the public highways only between the hours of 5:00 a.m. and 10:00 p.m. and while accompanied by a licensed driver who is at least twenty-one (21) years of age and who is actually occupying a seat beside the permittee.

D. 1. Any person:

a. who has applied for, been issued, and has possessed a learner permit for a minimum of six (6) months, and

b. whose custodial legal parent or legal guardian certifies to the Department by sworn affidavit that the person has received a minimum of fifty (50) hours of actual behind-the-wheel training, of which at least ten (10) hours of such training was at night, from a licensed driver who was at least twenty-one (21) years of age and who was properly licensed to operate a Class D motor vehicle for a minimum of two (2) years,

may be issued an intermediate Class D license upon successfully passing all parts of the driver license examinations administered by the Department. However, notwithstanding the date of issuance of the learner permit, if the person has been convicted of a traffic offense which is reported on the driving record of that person, the time period specified in subparagraph a of this paragraph shall be recalculated to begin from the date of conviction for the traffic offense, and must elapse before that person may be issued an intermediate Class D license. If the person has been convicted of more than one traffic offense which is reported on the driving record of that person, the time period specified in subparagraph a of this paragraph shall be recalculated to begin from the most recent date of conviction, and must elapse before that person may be issued an intermediate Class D license.

2. A person who has been issued an intermediate Class D license under the provisions of this subsection:

a. shall be granted the privilege to operate a Class D motor vehicle upon the public highways:

(1) only between the hours of 5:00 a.m. and 10:00 p.m., except for driving to and from work, school, school activities, and church activities, or

(2) at any time, if a licensed driver who is at least twenty-one (21) years of age is actually occupying a seat beside the intermediate Class D licensee, or if the intermediate Class D licensee is a farm or ranch resident, and is operating a motor vehicle while engaged in farming or ranching operations outside the limits of a municipality, or driving to and from work, school, school activities, or church activities, and

b. shall not operate a motor vehicle with more than one passenger unless:

(1) all passengers live in the same household as the custodial legal parent or legal guardian, or

(2) a licensed driver at least twenty-one (21) years of age is actually occupying a seat beside the intermediate Class D licensee.

E. Any person who has been issued an intermediate Class D license for a minimum of:

1. One (1) year; or

2. Six (6) months, if the person has completed both the driver education and the parent-certified behind-the-wheel training provisions of subparagraph c of paragraph 1 of subsection D of this section;

may be issued a Class D license. However, notwithstanding the date of issuance of the Class D license, if the person has been convicted of a traffic offense which is reported on the driving record of that person, the time periods specified in paragraphs 1 or 2, as applicable, of this subsection shall be recalculated to begin from the date of conviction for the

traffic offense, and must elapse before that person may be issued a Class D license. If the person has been convicted of more than one traffic offense which is reported on the driving record of that person, the time periods specified in paragraphs 1 or 2, as applicable, of this subsection shall be recalculated to begin from the most recent date of conviction, and must elapse before that person may be issued a Class D license.

F. Learner permits and intermediate Class D licenses shall be issued for the same period as all other driver licenses. The licenses may be suspended or canceled at the discretion of the Department for violation of restrictions, for failing to give the required or correct information on the application, for knowingly giving false or inaccurate information on the application or any subsequent documentation related to the granting of driving privileges, for using a hand-held electronic device while operating a motor vehicle for non-life-threatening emergency purposes or for violation of any traffic laws of this state pertaining to the operation of a motor vehicle.

G. The Department of Public Safety shall promulgate rules establishing procedures for removal of learner permit and intermediate Class D license restrictions from the permit or license upon the permittee or licensee qualifying for a less restricted or an unrestricted license.

H. Any person fourteen (14) years of age or older may apply for a restricted Class D license with a motorcycle-only restriction. After the person has successfully passed all parts of the motorcycle examination other than the driving examination and has met all requirements provided for in the rules of the Department, the Department shall issue to the person a restricted Class D license with a motorcycle-only restriction which shall grant to the person, while having the license in the person's immediate possession, the privilege to operate a motorcycle or motor-driven cycle:

1. With a piston displacement not to exceed two hundred fifty (250) cubic centimeters;

2. Between the hours of 4:30 a.m. to 9:00 p.m. only;

3. While wearing approved protective headgear; and

4. While accompanied by and receiving instruction from any person who is at least twenty-one (21) years of age and who is properly licensed pursuant to the laws of this state to operate a motorcycle or motor-driven cycle, and who has visual contact with the restricted licensee.

The restricted licensee may apply on or after thirty (30) days from date of issuance of the restricted Class D license with a motorcycle-only restriction to have the restriction of being accompanied by a licensed driver removed by successfully completing the driving portion of an examination.

I. The Department may in its discretion issue a special permit to any person who has attained the age of fourteen (14) years, authorizing such person to operate farm vehicles between the farm and the market to haul commodities grown on the farm; provided, that the special permit shall be temporary and shall expire not more than thirty (30) days after the issuance of the special permit. Special permits shall be issued only to farm residents and shall be issued only during the time of the harvest of the principal crops grown on such farm. Provided, however, the Department shall not issue a special permit pursuant to this subsection until the Department is fully satisfied after the examination of the application and other evidence furnished in support thereof, that the person is physically and mentally developed to such a degree that the operation of a motor vehicle by the person would not be inimical to public safety.

J. As used in this section:

1. "Hand-held electronic device" means a mobile telephone or electronic device with which a user engages in a telephone call, plays or stores media, including but not limited to music and video, or sends or reads a text message while requiring the use of at least one hand; and

2. "Using a hand-held electronic device" means engaging any function on an electronic device. **(47-6-105)**

Section 842.1. Demonstration of Satisfactory Reading Ability.

A. Pursuant to the provisions of paragraph 2 of subsection A of Section 6-107.3 of Title 47 of the Oklahoma Statutes, any person under the age of eighteen (18) years wishing to apply for a driver license or permit shall

successfully demonstrate a satisfactory reading ability at the eighth-grade reading level by meeting the following criteria:

1. A student enrolled in a public school shall successfully complete the reading portion of the state criterion-referenced test offered in the eighth grade. Following the administration of this test in the eighth grade, any student not successfully completing the reading portion shall be assigned a plan of remedial reading. Any student not successful in completing the reading portion of the state criterion-referenced test may take a comparable alternative reading proficiency test in order to satisfy the criteria for a driver license or permit. Alternative reading proficiency tests shall be approved by the State Department of Education. Subsequent successful completion of an alternative reading proficiency test shall serve to satisfy any test retaking requirement which may be required for the reading portion of the state criterion-referenced test in the eighth grade in the Oklahoma School Testing Program. School districts shall notify, in writing, each student who takes the reading portion of the state criterion-referenced test for the eighth grade or who takes an alternative reading proficiency test and the student's parent or legal guardian of the test results. If the student fails to perform satisfactorily on the test, the notice shall inform the student of the reading proficiency driver license requirement and the school's remediation plan for the student. Upon the student's successful completion of the test, the school shall furnish the student with the documentation needed for the driver license application in Oklahoma;

2. Unless alternatively documented according to the provisions of subsection C of this section, students under the age of eighteen (18) years shall successfully complete a reading proficiency test approved by the State Department of Education; and

3. Any student who wishes to apply for a restricted license to operate a motorcycle may take an alternative reading proficiency test, subject to the provisions of this section.

B. Alternative reading proficiency tests shall be offered by testing sites, which shall include the public schools at least four (4) times per calendar year, and may include any of the following which chose to participate, the technology center school districts, Regional Education Service Centers, colleges, accredited private schools, and other sites approved by the State Department of Education. A student may take the test as often as wished, subject to the provisions of this section. Testing sites shall provide the first alternative reading proficiency test for each student at no cost to the student. Students may be assessed a fee not to exceed Twenty-five Dollars ($25.00) by the testing site for each subsequent alternative reading proficiency test taken.

C. A school district shall provide for alternative documentation of reading proficiency for the purposes of paragraph 2 of subsection A of Section 6-107.3 of Title 47 of the Oklahoma Statutes for any student with an individualized education plan. The alternative documentation shall be furnished to such student who is performing satisfactorily in reading pursuant to the student's individualized education plan. Parents of disabled students educated pursuant to the provisions of Section 4 of Article XIII of the Oklahoma Constitution may satisfy the requirement of paragraph 2 of subsection A of Section 6-107.3 of Title 47 of the Oklahoma Statutes by signing an affidavit that, based upon their best information and belief, their child would qualify for an individualized education plan if enrolled in public school, and that in their judgment their child is performing satisfactorily in reading and is therefore academically qualified to satisfy the requirement of paragraph 2 of subsection A of Section 6-107.3 of Title 47 of the Oklahoma Statutes. **(70-1210.515)**

Section 843. Boxing in Physical Training or Education Authorized.

The governing board of each state educational institution and of each school district in the State of Oklahoma is hereby authorized to provide as part of any physical training or educational program the art, technique and practice of boxing. **(70-821.51)**

Section 843.1. Character Education Program.

A. The board of education of every school district in this state may develop and implement, at the beginning of the 2006-2007 school year, a comprehensive program for character education in grades kindergarten through twelfth. The character education program shall focus on development of character traits, the in students. The program of character education may include, but shall not be limited to, the voluntary reciting of the Pledge of Allegiance to the flag of the United States of America.

B. The State Board of Education shall develop and make available to all school districts through an Internet web site, the following:

1. Technical assistance upon request of a school district;

2. A list of character education programs, curricula, and materials which may be used by school districts;

3. A character education honor roll that will recognize school districts that have successfully implemented a comprehensive school-district-wide program of character education and will highlight the positive impacts the program has had on each school or school district; and

4. A character education reading list of books that may include, but is not limited to, books that illustrate models of good character and books that relate to the development of good character traits that may be used by schools in a character education program.

C. Subject to the availability of funding, the State Board of Education may award grants to ten school districts for the establishment of pilot projects which will implement a comprehensive character education program in the school district. The amount of each grant shall be One Thousand Dollars ($1,000.00). The projects shall be innovative programs that will serve as models for other school districts. Funding may cover the cost of purchasing curriculum, materials, or training teachers. The Board shall determine pilot project criteria and establish a process for the consideration of proposals. The proposals for pilot projects shall be considered on a statewide competitive basis. The Board shall promulgate rules for the operation of the projects. **(70-1210.229-6)**

Section 844. Cardiopulmonary Resuscitation Instruction Programs in High Schools.

A. This act shall be known and may be cited as the "Dustin Rhodes and Lindsay Steed CPR Training Act".

B. All students enrolled in physical education in classes in grades nine through twelve in the public schools of this state may receive instruction in the techniques of cardiopulmonary resuscitation and the Heimlich maneuver sufficient to enable the students to give emergency assistance to victims of cardiac arrest or choking.

C. The State Department of Education may administer the cardiopulmonary resuscitation and the Heimlich maneuver instruction program and train teaching personnel pursuant to rules adopted by the State Board of Education. Teaching materials and training courses provided by the American Red Cross, the American Heart Association and similar organizations may be utilized.

D. Each public school district board of education shall ensure that a minimum of one certified teacher and one noncertified staff member at each school site receives training in cardiopulmonary resuscitation and the Heimlich maneuver each year.

E. School districts may use state funds allocated to the school district for professional development to pay for or to reimburse teachers and support personnel for training in the administration of first aid and techniques of cardiopulmonary resuscitation and the Heimlich maneuver.

F. Nothing in this section shall be construed to impose liability on any school district or school district employee for injury or death of any student, teacher, or other person resulting from any cardiopulmonary or choking incident or to absolve any school district or school employee of liability that might otherwise exist under The Governmental Tort Claims Act. **(70-1210.199)**

Section 845. American Sign Language - Course Credit.

It is the intent of the Legislature that American Sign Language be recognized as a foreign language. Any institution in The Oklahoma State system of Higher Education may, in accordance with Section 3208 of Title 70 of the Oklahoma Statutes, offer courses in American Sign Language and grant credit for such courses in the same manner as provided for other foreign language courses. Course credit earned by a student for American Sign Language classes taken in the public schools may be credited by an institution for purposes of meeting elective course entrance or graduation requirements or both entrance and graduation requirements. **(70-3208.1)**

Section 846. Oklahoma Educational Indicators Program.

A. The Education Oversight Board shall establish an Oklahoma Educational Indicators Program. The purpose of the Program shall be to develop and implement a system of measures whereby the performance of public schools and school districts is assessed and reported without undue reliance upon any single type of indicator, and whereby the public, including students and parents, may be made aware of the proper meaning and use of any tests administered under the Oklahoma School Testing Program Act, relative accomplishments of the public schools, and of progress being achieved. The Board shall involve representatives of various organizations of school teachers and of school administrators in the development of the Program. The Program shall be so designed that use of standardized definitions and measures and opportunities for coordination with national reports, including those of the National Assessment of Educational Progress, are maximized.

B. The Oklahoma Educational Indicators Program shall present information for comparisons of graduation rates, dropout rates, pupil-teacher ratios, student enrollment gain and loss rates, and test results in the contexts of socioeconomic status and the finances of school districts. Information shall be provided individually for all public school sites and school districts in a format that facilitates comparisons. As necessary data become available, comparisons shall also be provided individually for all schools and school districts on a historical basis. Reports of all tests administered pursuant to the Oklahoma School Testing Program Act, Section 1210.505 et seq. of this title, shall be a part of the Oklahoma Educational Indicators Program and shall be provided for each grade and each test subject or set of competencies. Test results for students enrolled in Internet-based courses, including regularly enrolled and alternative education students, shall be disaggregated and reported. The Education Oversight Board shall seek to develop and incorporate additional indicators of comparative standing and accomplishment.

C. Additionally, the Education Oversight Board, with the cooperation of the State Department of Education, the Oklahoma State Regents for Higher Education, and the State Board of Career and Technology Education, shall develop procedures for obtaining and reporting data to the high schools and to the general public regarding the performance of each high school's graduates in Oklahoma's institutions of higher education and in postsecondary vocational-technical education. The Education Oversight Board shall include such data in the report of the Oklahoma Educational Indicators Program.

D. By February 1 of each year the Education Oversight Board shall publish:

1. A summary report to the people and Legislature of Oklahoma of the information provided by the Oklahoma Educational Indicators Program; and

2. State, district, and site level reports which shall include the percentage of students who perform at the various levels on the tests required by the Oklahoma State Testing Program.

Immediately following the publication of the reports required in this subsection each year, all data gathered pursuant to the Oklahoma Educational Indicators Program shall be made available for public inspection at the offices of the Education Oversight Board or the Office of Accountability; provided, confidentiality of individual student records shall be preserved as required by law. **(70-1210.531)**

Section 847. Identification of High Challenge Schools - Report to Legislature.

A. The State Board of Education shall determine and adopt a series of student performance levels for the criterion-referenced tests administered pursuant to the Oklahoma School Testing Program Act, Section 1210.505 et seq. of this title. The performance levels shall be set by a method similar to that used for the achievement levels on the National Assessment of Educational Progress. The State Board of Education shall ensure that the criterion-referenced tests developed and administered pursuant to the Oklahoma School Testing Program Act in grades three through eight are vertically aligned by content across grade levels to ensure consistency, continuity, alignment and clarity. Student performance levels shall be labeled: advanced, satisfactory, limited knowledge, and unsatisfactory.

B. The State Board of Education shall develop and implement in accordance with the Elementary and Secondary Education Act of 2001 (ESEA), P.L. No. 107-110, also known as the No Child Left Behind Act of 2001, an accountability system as provided for in 20 U.S.C., 6311 and any related federal regulations. The accountability system shall be implemented beginning with the 2002-2003 school year and shall be based on the Academic Performance Index

data as established pursuant to Section 3-150 of this title and as modified to meet the mandates of the ESEA. For the 2002-2003 school year and every year thereafter the State Board of Education shall publish and ensure that each local education agency is provided with Academic Performance Index data annually by site and by district so that the local education agency can make Adequate Yearly Progress determinations to identify schools for rewards and sanctions. The State Board of Education shall establish a system of recognition, rewards, sanctions and technical assistance.

C. A school that does not make adequate yearly progress (AYP) for two (2) consecutive years, as AYP is defined by the accountability system developed by the State Board of Education pursuant to this section, because of failure to meet either an academic performance target or an attendance or graduation performance target, or both, and is identified for school improvement shall utilize the assistance of a school support team or other similar team formed by the State Department of Education to provide support for schools in need of improvement, subject to school support team capacity. The school support team shall review and analyze all facets of operation of the school including the design and operation of the instructional program. The school support team shall assist the school in:

1. Incorporating strategies based on scientifically based research that will strengthen the core academic subjects in the school and address the specific academic issues that caused the school to be identified for school improvement;

2. Incorporating strategies to promote high quality professional development; and

3. Training teachers to analyze classroom and school-level data and use the data to inform instruction. **(70-1210.541)**

Section 847.1. State Intervention of Elementary School District.

A. Whenever the State Board of Education determines that an elementary school district, as defined in Section 5-103 of Title 70 of the Oklahoma Statutes, has failed to meet financial requirements for school districts or accreditation standards which negatively affects education or could result in the elementary school district not being able to operate for the remainder of the year, the Board may issue an administrative order placing the elementary school district under full state intervention. Prior to an order for full state intervention being issued by the Board, the State Department of Education shall notify the elementary school district that full state intervention is likely. The elementary school district shall have the opportunity to appear before the State Board of Education by filing a request within fifteen (15) days of receipt of the notice. At the meeting, the elementary school district administration, school patrons, and board of education members shall have an opportunity to provide information to the Board. The Board may issue an order calling for full state intervention which shall become effective immediately unless the order is stayed by a court of competent jurisdiction. The order shall be effective for not more than two (2) school years. The order may be extended upon review of the Board. Any appeal of the order shall be made to the district court of the county in which the elementary school district is located.

B. Full state intervention by the State Board of Education may include:

1. Developing and imposing a corrective action plan for the elementary school district;

2. Appointing a superintendent to serve the elementary school district; and

3. Selection of a federally recognized Indian tribe within the State of Oklahoma to provide direct oversight of the elementary school district or to assume complete control of the elementary school district, provided the elementary school district is within the boundaries of the tribe's jurisdiction.

C. For purposes of the Governmental Tort Claims Act, the superintendent appointed by the state as provided for in subsection B of this section shall be considered a state officer. **(70-1210.543)**

Section 847.2. Alternative Governance Arrangements.

A. 1. The State Board of Education shall establish a process to identify schools in the state that are consistently listed as a persistently low-achieving school in accordance with subsection (g)(6) of Section 1003 of Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended. A school district board of education with a

school identified as being among the persistently lowest-achieving schools in the state shall implement one of the following four intervention models for the school:

a. turnaround model – replacing the principal and rehiring not more than fifty percent (50%) of the staff and granting to the principal sufficient operational flexibility to fully implement a comprehensive approach to substantially improve student outcomes,

b. restart model - converting or closing the school and reopening it as a charter school under an operator or an education management organization that has been selected through a rigorous review process. Except for the average daily membership and county population limitations specified in subsection A of Section 3-132 of this title, any charter school created pursuant to this subparagraph shall be subject to the provisions of the Oklahoma Charter Schools Act,

c. school closure - closing the school and enrolling the students who attended that school in other schools in the school district that are higher-achieving, or

d. transformation model – implementing each of the following strategies:

(1) replace the principal,

(2) develop and increase teacher and school-leader effectiveness,

(3) institute comprehensive instructional reform,

(4) increase learning time and create community-oriented schools, and

(5) provide operational flexibility and sustained support.

2. If a school identified as being among the persistently lowest-achieving schools in the state has already implemented an alternative governance arrangement within the last two (2) years prior to the identification, the school may continue implementation of the alternative governance arrangement.

B. 1. Notwithstanding any other provision of state law, for schools that are identified for school improvement by the State Board of Education for four (4) consecutive years, the district board of education shall implement one of the following alternative governance arrangements for the school in accordance with subparagraph (B) of subsection (b)(8) of Section 1116 of Title I of the Elementary and Secondary Education Act of 1965, as amended:

a. reopening the school as a public charter school. Except for the average daily membership and county population limitations specified in subsection A of Section 3-132 of this title, any charter school created pursuant to this subparagraph shall be subject to the provisions of the Oklahoma Charter Schools Act,

b. replacing all or most of the school staff assigned to the school, which may include the principal, who are relevant to the failure to make adequate yearly progress and by transferring the replaced staff to another school or by dismissing or not reemploying the replaced staff in accordance with the provisions of the Teacher Due Process Act of 1990 or in accordance with subsection C of this section, if applicable,

c. entering into a contract with an entity, such as a private management company, with a demonstrated record of effectiveness, to operate the public school,

d. turning the operation of the school over to the State Board of Education, or

e. any other major restructuring of the governance arrangement of the school that makes fundamental reforms, such as significant changes in the staffing and governance of the school, to improve student academic achievement in the school and that has substantial promise of enabling the school to make adequate yearly progress. If the chosen governance arrangement does not produce adequate yearly progress within two (2) years from the date of implementation of the restructured governance arrangement, the State Board of Education shall assume control of the school as provided for in paragraph 2 of this subsection.

2. For any school that fails to comply with the provisions of paragraph 1 of this subsection by the end of the school year following its identification for school improvement for four (4) consecutive years, the State Board of Education

shall assume control of the management and operations of the school, including control of the staff assigned to the school. The Board shall retain all funds that otherwise would have been allocated to the school district based on the average daily membership of the school which shall be used to operate the school.

C. 1. A district board of education for a district with an average daily membership of more than 30,000 which implements an alternative governance arrangement as provided in paragraph 2 of subsection A of this section may utilize the following procedures, upon approval of the district board and concurrence of the executive committee of the appropriate local bargaining unit:
a. any teacher not retained at the school site shall be given status as a full-time substitute teacher within the school district for a period of not to exceed two (2) years,

b. if the teacher is not offered a contract teaching position at a school in the district within the two-year period specified in subparagraph a of this paragraph, the district board shall be authorized to not reemploy the teacher, and

c. the district board shall designate trained, certified, instructional staff to provide teacher support, development and evaluation, which may include certified personnel other than administrators.

2. Any actions taken pursuant to this subsection shall not be subject to the Teacher Due Process Act of 1990. The decision by the district board for renewal or nonrenewal shall be final.

3. For purposes of this subsection, a full-time substitute teacher shall perform the duties assigned by the district superintendent and shall continue to receive the same salary, benefits and step increases that the teacher would otherwise be entitled to for the time period the teacher serves as a full-time substitute.

D. 1. Each school district subject to the provisions of subsection B of this section shall submit a plan for compliance with this section to the State Department of Education, in a manner prescribed by the Department.

2. Beginning December 31, 2010, and annually each year thereafter, the State Department of Education shall submit a report of the district plans received as provided in paragraph 1 of this subsection to the members of the Senate and House Education Committees. **(70-1210.544)**

Note: Amended by SB 553, Sec. 45 & 46 of the 2011 Reg. Sess.

Section 847.3. School Report Card.

A. As part of the accountability system developed as provided for in Section 1210.541 of Title 70 of the Oklahoma Statutes, the State Board of Education shall prepare annual reports of the results of the Oklahoma School Testing Program which describe student achievement in the state, each school district, and each school site. The Board shall prescribe the design and content of the reports, which shall include, without limitation, descriptions of the performance of all schools participating in the Oklahoma School Testing Program and all of the major student populations as determined by the Board, and shall also include the median scores of all eligible students who scored at or in the lowest twenty-fifth percentile of the state in the previous school year. The confidentiality of individual student records shall be preserved as required by law.

B. The annual report as required pursuant to subsection A of this section shall identify school districts and school sites as having one of the following grades, defined according to rules of the State Board of Education:

1. “A” means schools making excellent progress;

2. “B” means schools making above average progress;

3. “C” means schools making satisfactory progress;

4. “D” means schools making less than satisfactory progress; and

5. “F” means schools failing to make adequate progress.

C. Each school that has students who are tested and included in the school grading system as provided for in this section shall receive a school grade, except as follows:

1. A school shall not receive a school grade if the number of students tested and included in the school grading system is less than the minimum sample size necessary, based on accepted professional practice, for statistical reliability and prevention of the unlawful release of personally identifiable student data; and

2. A school that serves any combination of students in kindergarten through grade three which does not receive a school grade because the students are not tested and included in the school grading system shall receive the school grade designation of a feeder pattern school identified by the State Department of Education and verified by the school district. A school feeder pattern exists if at least sixty percent (60%) of the students in the school serving a combination of students in kindergarten through grade three are scheduled to be assigned to the graded school.

D. The grade of a school shall be based on a combination of:

1. Thirty-three percent (33%) on student test scores, including achievement on all criterion-referenced tests and end-of-instruction tests administered under Section 1210.508 of Title 70 of the Oklahoma Statutes and alternative test scores administered to students pursuant to Section 1210.523 of Title 70 of the Oklahoma Statutes;

2. Seventeen percent (17%) on student learning gains in reading and mathematics as measured by criterion-referenced tests and end-of-instruction tests administered under Section 1210.508 of Title 70 of the Oklahoma Statutes;

3. Seventeen percent (17%) on improvement of the lowest twenty-fifth percentile of students in the school in reading and mathematics on the criterion-referenced tests and end-of-instruction tests administered under Section 1210.508 of Title 70 of the Oklahoma Statutes, unless these students are exhibiting satisfactory performance; and

4. Thirty-three percent (33%) on whole school improvement, which shall include:

a. for schools comprised of high school grades:

(1) the high school graduation rate of the school,

(2) the performance and participation of students in College Board Advanced Placement courses, International Baccalaureate courses, concurrent enrollment courses, Advanced International Certificate of Education courses, and the achievement of students on national industry certification identified pursuant to rules adopted by the Board,

(3) postsecondary readiness of students as measured by the SAT tests administered by the College Board or the American College Test (ACT),

(4) the high school graduation rate of students who scored at limited knowledge or unsatisfactory on the eighth-grade criterion-referenced tests in reading and mathematics,

(5) as valid data becomes available, the performance of students on the end-of-instruction tests administered under Section 1210.508 of Title 70 of the Oklahoma Statutes, and

(6) the growth or decline in the components listed in divisions (1) through (5) of this subparagraph from year to year, and

b. for schools comprised of middle school grades and elementary school grades:

(1) the drop-out rate of the school,

(2) the percentage of students who are taking higher level coursework at a satisfactory or higher level, and

(3) any other factors selected by the State Superintendent of Public Instruction.

E. Student test data used in determining school grades shall include:

1. The aggregate scores of all eligible students enrolled in the school who have been administered the criterion-referenced tests and end-of-instruction tests administered under Section 1210.508 of Title 70 of the Oklahoma Statutes;

2. The aggregate scores of all eligible students enrolled in the school who have been administered the criterion-referenced tests and end-of-instruction tests administered under Section 1210.508 of Title 70 of the Oklahoma Statutes, and who have scored at or in the lowest twenty-fifth percentile of students in the school in reading and mathematics, unless these students are exhibiting satisfactory performance; and

3. For schools comprised of high school grades, the data listed in paragraphs 1 through 3 of this subsection, and the following data as the State Department of Education determines the data are valid and available:

a. the high school graduation rate of the school as calculated by the Department,

b. the participation rate of all eligible students enrolled in the school in College Board Advanced Placement courses, International Baccalaureate courses, concurrent enrollment courses, Advanced International Certificate of Education courses, and courses or sequence of courses leading to national industry certification identified pursuant to rules adopted by the Board,

c. the aggregate scores of all eligible students enrolled in the school in College Board Advanced Placement courses, International Baccalaureate courses, and Advanced International Certificate of Education courses,

d. earning of college credit by all eligible students enrolled in the school in concurrent enrollment programs as provided for in Section 628.13 of Title 70 of the Oklahoma Statutes,

e. earning of a national industry certification identified pursuant to rules adopted by the Board,

f. the aggregate scores of all eligible students enrolled in the school in reading, mathematics, and other subjects as measured by the SAT test administered by the College Board and the ACT,

g. the high school graduation rate of all eligible students enrolled in the school who scored at limited knowledge or unsatisfactory on the eighth-grade criterion-referenced tests in reading and mathematics,

h. the performance of students on statewide end-of-instruction tests administered under Section 1210.508 of Title 70 of the Oklahoma Statutes, and

i. the growth or decline in the data components listed in subparagraphs a through h of this paragraph from year to year.

F. The annual report shall identify the performance of each school as having improved, remained the same, or declined. This school improvement rating shall be based on a comparison of the student and school performance data of the current year to the previous year data. Schools that improve at least one grade level are eligible for school recognition as established by the Board through the accountability system developed pursuant to Section 1210.541 of Title 70 of the Oklahoma Statutes.

G. The State Department of Education shall annually develop, in collaboration with school districts and the Office of Accountability, a school site report card to be delivered to parents throughout each school district. The report card shall include the grade for the school, information regarding school improvement, an explanation of school performance as evaluated in accordance with the Elementary and Secondary Education Act of 2001 (ESEA), P.L. No. 107-110, also known as the No Child Left Behind Act of 2001, and indicators of return on investment. The report card for each school site shall be published annually by the Department on its website, and every school district shall provide the school site report card to the parent or guardian of each student enrolled in the school site.

H. The annual school site report card required by subsection G of this section shall include school district grades, which shall consist of weighted district average grades, by level, for all school sites in the district. A weighted average

grade for a school district shall be calculated by weighting individual school grades determined pursuant to this section by school enrollment.

I. The Legislature may factor in the performance of schools in calculating any performance-based funding policy that is provided to public school districts.

J. The State Board of Education shall promulgate rules to implement the provisions of this section. **(70-1210.545)**

Note: Enacted by HB 1456, Sec. 1 of the 2011 Reg. Sess.

Section 847.4. Organ Donor Awareness.

The State Superintendent of Public Instruction shall develop and implement in conjunction with the State Department of Health and the Oklahoma Organ Donor Education and Awareness Program Advisory Council within the State Department of Health an organ donor education and awareness curriculum for use in the elementary and secondary schools of this state. The State Board of Education shall promulgate rules to enact the provisions of this section not later than the 2001-2002 school year. **(63-2220.6)**

Section 847.5. Drinking and Driving Education Awareness Programs.

A. The State Department of Education shall develop and administer appropriate driver education programs to be conducted in all of the schools of this state to increase awareness of the dangers of drinking and driving.

B. 1. In order to provide education and instruction to all applicants for an original Oklahoma driver license, the Oklahoma Driver's Manual, published and distributed by the Department of Public Safety pursuant to Section 2-114 of this title, shall contain accurate information on:

a. the hazards of driving while under the influence of alcohol or other intoxicating substances, and

b. the legal and financial consequences resulting from violations of this state's laws prohibiting the operation or actual physical control of a motor vehicle while under the influence of alcohol or other intoxicating substances.

2. In addition to the subjects set forth in Section 6-110 of this title, the written examination administered by the Department of Public Safety to every applicant for an original Oklahoma driver license shall contain questions on the subjects listed in this subsection. **(47-6-106.3)**

Section 848. Authorization - Administration.

A. The State Board of Education is authorized to assist, and if funds are available to make grants to, local boards of education for the establishment of pilot projects that replace the traditional organization of teaching and learning with innovative management and instructional systems and materials. Projects may involve entire districts, combinations of districts, combinations of schools, or elements of schools individually or in combination. Projects shall not supplant existing alternative school programs.

B. On or before March 31, 1990, the State Board of Education shall determine pilot project criteria, and by July 1, 1990, solicit proposals, and establish a process for the consideration of' proposals. Such proposals for pilot projects shall be considered on a statewide competitive basis. Proposals which require a substantial policy-determination role for teachers and which include a process for measuring the progress and achievement of students involved shall be given preference.

C. The State Board of Education is authorized to promulgate rules and regulations for the operation of such projects and to grant exceptions to rules and regulations for districts selected to operate such projects. The State Board shall have the authority to require termination of pilot project or its continuation at any time that it finds such termination to be in the best interests of the students involved. **(70-1210.551)**

Section 848.1. Oklahoma School Deregulation Committee.

A. There is hereby created until May 31, 1991, the Oklahoma School Deregulation Committee which shall consist of six (6) members. Five members of the Oklahoma School Deregulation committee shall be appointed within thirty (30) days of the effective date of this section by the State Superintendent of Public Instruction and shall consist of members of Task Force 2000. The State Superintendent of Public Instruction shall be a member of the Committee and shall be the chairperson of the committee. A quorum is necessary to transact any business. Members of the Committee shall be reimbursed for travel expenses incurred in the performance of their official duties in accordance with the State Travel Reimbursement Act.

B. The Oklahoma School Deregulation Committee shall:

1. identify appropriate areas for deregulation on a long-term basis and, on a more immediate basis, during the period in which performance standards for schools are being developed;

2. study any and all areas of current regulations as appropriate subjects of future deregulation, except those areas which bear on the health and safety of school children;

3. review student transfer laws in Oklahoma and provide recommendations on making such laws more flexible and less restrictive;

4. consider the potential effects of deregulation on the negotiation process between local school boards and bargaining units; and

5. submit a report on the Committee's findings and recommendations on or before May 30, 1991, to the Governor, the Speaker of the Oklahoma House of Representatives, the President Pro Tempore of the Senate and the State Board of Education. **(70-1210.551a)**

Section 849. Coordinated Educational Services Available to Families of Recipients of TANF.

A. The State Board of Education shall solicit proposals for, and if funds are available make grants for, pilot projects that make coordinated educational services available to families of recipients of Temporary Assistance for Needy Families (TANF). Such proposals shall be prepared in cooperation with personnel of the Department of Human Services and shall address the needs of preschool children, dropouts, and adult members of such families who have not graduated from high school or completed a high school equivalency program.

B. The State Board of Education shall determine pilot project criteria and establish a process for the consideration of proposals. Such proposals for pilot projects shall be considered on a statewide competitive basis. The State Board of Education is authorized to promulgate rules for the operation of such projects. To the extent that funds are available, funding of projects approved shall include monies to provide child care while older members of families are receiving TANF services from the pilot project. **(70-1210.552)**

Section 850. Academically - Oriented Activity Programs for Students Before and After School and During the Summer.

A. Contingent upon the provision of appropriated funds designated for such purpose, the State Board of Education may award one or more competitive grants for providing academically-oriented programs to students needing or desiring such programs during before-school, after-school, and summer periods.

B. The State Board of Education shall determine pilot program criteria and establish a process for the consideration of proposals. Such proposals for pilot programs shall be considered on a statewide competitive basis. The State Board of Education is authorized to promulgate rules for the operation of such programs.

C. Upon implementation of this subsection as provided for in subsection D of this section, the State Board of Education shall modify the awards process for the competitive grants so that grants are awarded to school districts or nonprofit organizations. In addition, the grants shall be awarded to academically oriented programs which serve students in at-risk or disadvantaged urban school districts.

D. Implementation of subsection C of this section shall be delayed until the current expenditure per pupil in average daily attendance in public elementary and secondary schools in unadjusted dollars for the 1998-99 school year or any school year thereafter for Oklahoma, as reported by the National Center for Education Statistics annually in the Digest of Education Statistics, reaches at least ninety percent (90%) of the regional average expenditure for that same year, and funds are provided. For purposes of this subsection, the regional average expenditure shall consist of the current expenditure per pupil in average daily attendance in public elementary and secondary schools in unadjusted dollars for each of the following states: Arkansas, Colorado, Kansas, Missouri, New Mexico, Oklahoma, and Texas, averaged together. By January 1 of each year, the State Board of Education shall report whether or not the ninety-percent expenditure level has been reached based on information reported annually in the Digest of Education Statistics by the National Center for Education Statistics. Subsection C of this section shall be implemented on July 1 after the first January 1 report verifies that the ninety-percent expenditure level has been reached and funds have been provided for the specific purposes of this section. **(70-1210.553)**

Section 851. Technology Education Pilot Projects for Middle Schools.

A. The State Board of Career and Technology Education is authorized to assist, and, if funds including but not limited to stated appropriations are available, or if private or corporate donations or other sources are matched in pilot projects, to make grants to, local boards of education for the establishment of pilot projects that would aid in the providing of technology education to middle school students. Funding may cover the cost of equipment, books and materials, and the start-up costs of developing the technology education program. Projects may involve entire districts, combinations of districts, combinations of schools, or elements of schools individually or in combination.

B. If funds are available on or before March 31, 1993, the State Board of Career and Technology Education shall determine pilot project criteria, and by July 1, 1993, solicit proposals, and establish a process for the consideration of proposals. Such proposals for pilot projects shall be considered on a statewide competitive basis.

C. The State Board of Career and Technology Education is authorized to promulgate rules for the operation of such projects and to grant exceptions to rules for districts selected to operate such projects. The State Board of Career and Technology Education shall have the authority to require termination of a pilot project or its continuation at any time that it finds such termination to be in the best interests of the students involved. **(70-1210.555)**

Section 851.1. Internet Homework Tutoring Chatrooms.

A. The State Board of Education shall solicit proposals for, and if funds are available, make grants to local boards of education for the establishment of pilot projects that would aid in the development of Internet homework tutoring chatrooms. The proposals for the Internet chatrooms shall create a mechanism that will allow students to contact and interact with teachers or other professionals when they are not at school, when the student needs assistance with courses or homework. Funding may cover the cost of equipment, materials, personnel, and any other start-up costs of developing the Internet chatrooms. Projects may involve entire districts, combinations of districts, combinations of schools, or elements of schools individually or in combination.

B. The State Board of Education shall determine pilot project criteria and establish a process for the consideration of proposals. Such proposals for pilot projects shall be considered on a statewide competitive basis. The Board is authorized to promulgate rules for the operation of such projects. **(70-1210.556)**

Section 851.2. Develop and Implement a School Testing Assistance Internet Web Page.

A. By January 1, 2000, the State Board of Education shall, if funds are available, develop and implement a school testing assistance Internet web page. The purpose of the web page shall be to help students prepare for tests required under the Oklahoma School Testing Program Act and to provide remediation assistance to those students who do not perform satisfactorily on such tests. The web page shall contain information, materials, and example questions which may be used by teachers, students and parents to assist students in preparing for the required tests. The web page shall also identify the most difficult concepts incorporated in the tests and provide specific information, material and example questions which will assist students in those areas.

B. The Board shall notify schools and take steps to inform students and parents about the school testing assistance Internet web page. The Board is authorized to promulgate rules for the operation of the web page. **(70-1210.557)**

Section 851.3. Middle School Math Labs.

A. Beginning with the 2005-2006 school year, and each year thereafter, the State Board of Education shall identify public schools with low student achievement in mathematics at the middle school level, subject to a limit of one school selected per school district each year. Each school selected shall be provided a middle school mathematics laboratory which includes a complete education software and hardware system that delivers standards-based, prealgebra and algebra content using an interactive computer education teaching system for middle school level students. No school shall be eligible to receive a mathematics laboratory more than once. The number of schools selected each year shall be determined based on the total amount of funds available and the number of computers necessary for a class of students at each qualifying school site.

B. The State Board of Education shall select a vendor on a competitive bid basis to provide the middle school mathematics laboratory as described in this section. The contract shall include all equipment, software, training, and maintenance. The vendor selected shall utilize a curriculum that meets the guidelines for scientifically based research as determined by the United States Department of Education and aligns with the Priority Academic Student Skills as adopted by the State Board of Education.

C. The State Board of Education shall develop eligibility criteria for schools to qualify for a mathematics laboratory pursuant to this section, annually evaluate and report to the Legislature and Governor on the effectiveness of this program, and adopt rules to implement the provisions of this section. **(70-1210.558)**

Section 852. Project Review - Evaluation - Report to Legislature.

The State Board of Education shall establish a project review and evaluation process and shall make an annual report to the Legislature analyzing and evaluating all pilot projects in operation. Said report shall be furnished to the President Pro Tempore of the Senate and the Speaker of the House of Representatives not later than the tenth legislature day of each legislative session. **(70-1210.591)**

Section 853. Student Tours of Correctional Institutions.

A. It is the intent of the Legislature that children residing in this state understand the seriousness of conviction for criminal behavior and the resulting punishment. The purpose of visits to correctional institutions provided for herein shall be to demonstrate to pupils the harmful effects of incarceration on the life of an inmate.

B. Public school districts may provide for at least one visit per school year for pupils in the eighth grade or a higher grade to a state correctional institution. Transportation shall be provided pursuant to Section 9-108 of Title 70 of the Oklahoma Statutes. The State Department of Education shall promulgate rules to implement the provisions of this section. **(70-1210.231)**

Section 854. Cancellation of Tours When Security Risk Exists.

The Department of Corrections shall provide for the safe conduct of tours of state correctional institutions that are organized pursuant to Section 71 of this act. The Department may prohibit, delay or cancel tours if it finds that a security risk exists at the scheduled institution. **(70-1210.232)**

Section 855. Regional Education Service Center Act.

Sections 20 through 31 of this act shall be known and may be cited as the Regional Education Service Center Act. **(70-1210.271)**

Section 856. Purpose of Act.

The purposes of the Regional Education Service Center Act are:

1. To expand the services of the Regional Education Service Centers, personnel, and certain selected material to ensure that students with learning difficulty or exceptional capability which shall include any gifted child will receive proper screening, diagnosis, and evaluation or consultation in order to benefit from an appropriate public education;

2. To provide an educational screening program for students in every school district in the state and services to assist in the identification, location and evaluation of children with disabilities who are in need of special education and related services in accordance with the IDEA; and

3. To provide Regional Education Service Centers to assist and coordinate with local educational agencies for educational evaluation and in meeting their obligations for child identification in accordance with federal requirements under the IDEA.

It is not the intent of the Regional Education Service Center Act to supplant present or future special education appropriations or to reduce the number of present or proposed special education classes.

It is intended by the Regional Education Service Center Act that the State of Oklahoma meet its responsibility to ensure that every student in the public schools throughout the state has the opportunity to receive an appropriate education for the benefit of his future life in society.

It is further intended by the Regional Education Service Center Act that guidelines shall be promulgated to permit curriculum materials to be utilized by the student's teacher for such period of time as is necessary to assist said student during the school year. **(70-1210.272)**

Section 857. Definitions.

As used in the Regional Education Service Center Act, except as the context may otherwise require:

1. "Regional education service centers" means educational, administrative, service and evaluation centers, hereinafter referred to as "centers" or "service centers";

2. "Department" means the State Department of Education;

3. "Board" means the Oklahoma State Board of Education;

4. "IDEA" means the Individuals with Disabilities Education Act (IDEA), P.L. No. 101-476;

5. "Educational screening" means the implementation of accepted procedures for identification of children who may have special learning needs and may be eligible for special education and related services in accordance with the IDEA;

6. "Evaluation" means procedures used in accordance with federal laws and regulations to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs. The term means procedures used selectively with an individual child and does not include basic tests administered to or procedures used with all children in a school, grade, or class. Provided, however, that no child shall be initially evaluated whose parent or legal guardian has not filed a written consent for such evaluation with the local board of education; and

7. "Readiness screening" means the implementation of procedures for assessing readiness for first grade as provided in Section 1210.282 of this title. **(70-1210.273)**

Section 858. Qualifications for Certain Personnel.

Qualifications for all personnel to be employed in the service centers shall be determined by the State Board of Education and in accordance with the IDEA. **(70-1210.274)**

Section 859. Services to be Provided by Centers.

There shall be at least twenty (20) service centers which shall provide the services described herein to all the school districts in the state.

Every service center shall offer the schools and school districts which they serve professional assistance in the efforts which are aimed toward the improvement of instruction for students. Each center shall provide the following services:

1. Evaluation services for the purposes of identification, evaluation and placement of children in special education programs, which shall be in accordance with the federal regulations promulgated under the IDEA, and in accordance with the Family Education Rights and Privacy Act;

2. Implementation of effective procedures, media, and equipment for acquiring and disseminating significant information and materials in accordance with the federal regulations promulgated under the IDEA;

3. Individualized learning plans, which shall include prescriptive teaching plans to teachers, for students who are having learning problems; consultation for educators and parents working with or having students with learning problems; providing special education material for special education teachers; and providing special education material on a prescriptive basis to the classroom teacher who has students with learning problems and consultation services and interpretation of evaluation data to assist parents and multidisciplinary teams in making educational placement decisions and planning for effective educational interventions in the least restrictive environment;

4. Assistance for organizing staff development, including the offering at each Center of conferences, institutes, and other in-service training for educators working with students with special needs; assistance in these programs for emphasizing the awareness, utilization and adaptation of appropriate materials, learning theory, research findings, and other appropriate topics, to assist in implementation of federal regulations concerning the comprehensive system of personnel development for educators and disseminating information to parents; and

5. Coordination and collaboration with public agencies and local school districts which are responsible for providing evaluation and other special education or related services to children with disabilities as provided under Section 1001 et seq. of Title 74, Section 13-101 et seq. of Title 70 and Section 601.41 et seq. of Title 10 of the Oklahoma Statutes, and in accordance with the federal regulations for interagency agreements promulgated pursuant to the IDEA. Such coordination shall include cooperative efforts of local districts joining with the service center staff to engage in any educational activities to increase the learning opportunities for teachers and any and every student in the public schools in the service center area. **(70-1210.275)**

> A Regional Education Service Center cannot conduct or use, for any purpose, projective psychological, personality or adjustment tests designed to collect information relative to a pupil's personality, environment, home life, parental or family relationships, economic status, religious beliefs, patriotism, sexual behavior or attitudes, or sociological problems. *October 21, 1977 (AG Op. No. 77-234)*

Section 860. Analysis of Screening - Further Evaluation.

A. Each service center shall provide assistance and training in analysis of educational screening to schools within the area which the center serves. The service centers shall assist school districts in initiating referrals for comprehensive evaluations for the purpose of identifying children who may be eligible for special education and related services.

B. Educational screening shall be conducted by the public schools.

C. The service centers shall conduct evaluations upon referral.

D. Prior written notice and parent consent for evaluation shall be in accordance with the provisions of the IDEA. **(70-1210.276)**

Responsibility to provide student screening and evaluation services lies with Regional Education Service Center. Regional Educational Service Center has final authority to decide whether child takes additional testing or evaluation. *July 27, 1977 (AG Op. No. 77-196)*

Section 861. Confidentiality of Records - Parental Permission.

The results of individual student screening shall be confidential, except that information and results shall on request be made available to parents either visually or in written form and to professional personnel involved in the education of the students, as determined by the Board. Provided, however, students shall not be subjected to individual evaluation without prior written parental permission except for re-evaluations required pursuant to the IDEA. In no case shall the results of any individual student screening or evaluation by center personnel be made a part of the student's permanent in-school records. Such individual student records shall be destroyed when the information contained therein is no longer necessary for carrying out the purposes of this act or when the student reaches the age of eighteen (18), whichever is earlier. Provided, however, on written request of a parent or legal guardian, such information may be forwarded to a center serving a receiving school district. Educational screening and evaluations shall be maintained in accordance with the federal regulations for confidentiality under the Family Educational Rights and Privacy Act and the IDEA. The disclosure, transfer, maintenance, destruction, amendment, parental or student rights to access, inspection and review of such records and parental consent for disclosure and transfer of such records shall be in accordance with these federal laws and state law. **(70-1210.277)**

Section 862. Responsibility for Screening and Analysis - Implementation of Education Screening.

A. The board of education for each school district in the state shall implement a system to provide educational screening as required in this section.

B. The service centers are charged with the responsibility of ensuring that educational screening is implemented in each public school in the state for all first grade students in each school year. The service centers shall provide assistance and training to school districts for implementation of effective procedures for educational screening and analysis of the results.

C. Second grade through twelfth grade students shall be educationally screened as needed or upon request of a parent, legal guardian, or teacher pursuant to regulations promulgated by the State Board of Education.

D. Students entering the public school system from another state or from within the state without previous educational screening shall be educationally screened within six (6) months from the date of such entry.

E. No child shall be educationally screened whose parent or legal guardian has filed written objection with the local school district. **(70-1210.278)**

Section 863. Rules and Regulations - Retention of Materials and Equipment.

The State Board of Education is hereby authorized to promulgate rules as may be necessary to carry out the provisions of this act. The State Board of Education shall promulgate rules for the staffing and operation of the service centers, including safeguards to assure the uniform application and availability of all services of the service centers to all students within the area served by the service centers. The rules shall further provide for the withholding of funds by the State Board of Education from any of the service centers to assure compliance with the rules. The State Board of Education shall promulgate uniform rules for the testing of students.

The State Board of Education, regional service center or local school district shall furnish curriculum materials for local school districts for use by the students participating in the programs. All such materials shall be delivered to the local school district by the service centers and shall remain in the local school district as long as prescribed by the regional service center.

The regional education service centers shall acquire and disseminate significant information, materials and equipment in accordance with the IDEA.

The service centers shall provide and assist in coordinating for the provision of workshops, short courses, and training within the respective regions and in cooperation with local schools, professional developments centers, organizations, public agencies, and institutions of higher education in accordance with the comprehensive system of personnel development requirements under the IDEA.

The State Board of Education may establish and operate Service Centers by contract with any independent school district in the state. **(70-1210.279)**

Section 864. Utilization of Services.

Preschool children, ages three (3) through five (5) years, and students enrolled in K-12 in the public school system of Oklahoma who are suspected of having disabilities which may require special education and related services may utilize the services provided in this act. The service centers and local school districts shall coordinate with the program established pursuant to the Early Intervention Act, Section 13-121 et seq. of this title, in the evaluation and identification of infants and toddlers who may be eligible at the age of three (3) years for special education and related services through the schools. **(70-1210.280)**

Section 865. Funding.

The provisions of this act shall be accumulative to existing laws and shall not be construed to repeal, amend or otherwise modify any of said laws. **(70-1210.281)**

Section 866. Program to Screen Students Enrolled in Kindergarten.

A. The State Board of Education shall develop and implement a readiness screening program to screen students enrolled in kindergarten in the public schools of the state for readiness prior to entry into first grade in a public school. Results of the screening shall be made available to the child's parent or legal guardian, teacher and school district administration.

B. The service centers shall provide assistance and training to local schools to ensure effective procedures for readiness screening prior to first grade. Current knowledge and research information concerning screening procedures, readiness, and disabilities in early childhood shall be disseminated by the service centers. **(70-1210.282)**

Section 867. Prior Notice to Parent or Guardian.

No child shall be educationally screened, screened for readiness, or evaluated as defined in Section 22 of this act without prior notice to the child's parent or legal guardian. The State Board of Education shall promulgate rules establishing content and distribution requirements of the notice. **(70-1210.283)**

Section 868. Economic Education Act of 1974.

This act shall be known and may be cited as the "Economic Education Act of 1974." **(70-1210.251)**

Section 869. Definition.

As used in this act, the term "economic education" means citizenship competencies needed by the individual for effectively performing his decision-making roles as a consumer, a worker making career choices and a voter on personal and societal economic issues. **(70-1210.252)**

Section 870. Purpose of Act.

The purpose of this act is to authorize the development of a comprehensive economic education program for children in kindergarten and grades one through twelve in the public school districts of this state which choose to participate. It is the legislative intent that this program may teach a positive understanding of the American economy, how it functions and how the individual can function effectively within our economy as a consumer, worker and voter. While dealing with economic problems and issues, the program may teach the positive values of profit and competition in a basically free-enterprise economy which underscores the worth and dignity of the individual. **(70-1210.253)**

Section 871. Administration of Act.

The State Department of Education may administer the comprehensive Economic Education Act of 1974 pursuant to regulations which the State Board of Education is hereby empowered to promulgate. Support shall be provided by the state senior colleges and universities in the preservice preparation of teachers to carry out the provisions of this act. These institutions of higher education are also encouraged to establish formal Economic Education Centers to assist the common schools with curriculum planning, in-service training and further work in the development of instructional materials. In administering this section, the Department shall take into consideration the advice of the Oklahoma Council on Economic Education. **(70-1210.254)**

Section 872. Duties of State Board of Education.

In administering this act, the State Board of Education and the State Department of Education shall be governed by the following:

1. Implement in-service education programs for teachers, administrators and other personnel. General guidelines are provided by the Economic Education Curriculum Guide - K-12, published by the Oklahoma State Department of Education in 1972. Supplementary in-service teacher education materials which are based on individual performance and designed for use with a minimum of supervision shall be developed and made available to all school districts which are participating in this program;

2. Implement provisions of this act in the most expeditious manner possible, commensurate with the availability of teaching personnel;

3. Implement local school system evaluation of the effectiveness of the economic education program prescribed by this act in those school districts participating; and

4. Recommend degree programs and short course seminars for the preparation of economic education teaching personnel. **(70-1210.255)**

Section 873. Combining of Funds.

In implementing this act every effort shall be made to combine funds appropriated for this purpose with funds available from all other sources, federal, state, local or private, in order to achieve maximum benefits for improving economic education. **(70-1210.257)**

Section 874. Annual Report on Status of Economic Education Program.

The State Department of Education shall, at least thirty (30) days prior to the 1975 regular session of the Legislature and each regular session thereafter, transmit to the members of the State Board of Education, the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Chairmen of the Senate and House Education Committees, a report as to the status of the economic education program together with any recommendations for further improvement, modification or additional legislation. **(70-1210.258)**

Section 875. Drug Abuse Education Act of 1972.

This act shall be known and may be cited as the "Drug Abuse Education Act of 1972." **(70-1210.221)**

Section 876. Drug - Definition.

As used in this act, the term "drug" means articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; articles intended for use in the diagnosis cure, mitigation, treatment, or prevention of disease in man or other animals; articles, other than food, intended to affect the structure or any function of the body of man or other animals; and articles intended for use as a component of any article specified in this paragraph; but does not include devices or their components, parts or accessories. It shall also include alcoholic and intoxicating liquor and beverages and tobacco. **(70-1210.222)**

Section 877. Purpose of Act.

The purpose of this act is to authorize the development of a comprehensive drug abuse education program for children and youth in kindergarten and grades one through twelve in the public school districts of this state which choose to participate. It is the legislative intent that this program may teach the adverse and dangerous effects of drugs on the human mind and body and may include proper usage of prescription and nonprescription medicines. **(70-1210.223)**

Section 878. State Department of Education to Administer Act.

The Department of Education may administer the comprehensive Drug Abuse Education Act of 1972, pursuant to regulations which the State Board of Education is hereby empowered to promulgate. In administering this section, the Department shall take into consideration the advice of the Commissioner of Narcotics and Dangerous Drugs Control and the Advisory Board to the Commissioner of Narcotics and Dangerous Drugs Control. **(70-1210.224)**

Section 879. Implementation of Act.

In administering this act, the State Board of Education and the State Department of Education shall be governed by the following:

1. Implement in-service education programs for teachers, administrators and other personnel. Special emphasis shall be placed on methods and materials necessary for the effective teaching of drug abuse education. In-service teacher education materials which are based on individual performance and designed for use with a minimum of supervision shall be developed and made available to all school districts which are participating in this program;

2. Implement provisions of this act in the most expeditious manner possible, commensurate with the availability of textbooks and materials, as well as the availability of teaching personnel; and

3. Recommend degree programs and short course seminars for the preparation of drug education teaching personnel. **(70-1210.225)**

Section 880. Funds for Implementation of Act.

In implementing this act every effort shall be made to combine funds appropriated for this purpose with funds available from all other sources, federal, state, local or private, in order to achieve maximum benefits for improving drug abuse education. **(70-1210.227)**

Section 881. Reports to Legislature.

The State Department of Education shall, at least thirty (30) days prior to the 1973 regular session of the Legislature and each regular session thereafter, transmit to the members of the State Board of Education, the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Chairmen of the Senate and House Education Committees, a report as to the status of the drug abuse education program together with any recommendations for further improvement, modification or additional legislation. **(70-1210.228)**

Section 882. Oklahoma Alcohol and Drug Abuse Prevention and Life Skills Education Act.

Sections 1210.229-1 through 1210.229-5 of this title shall be known and may be cited as the "Oklahoma Alcohol and Drug Abuse Prevention and Life Skills Education Act". **(70-1210.229-1)**

Section 883. Purpose of Act.

The Legislature finds that for the purpose of preventing drug and alcohol abuse among our young people, and for preventing or alleviating problems which lead to and are closely associated with drug and alcohol abuse, it is desirable that all Oklahoma school districts develop and implement a curriculum for drug and alcohol abuse prevention for all grade levels. Such curriculum may include training in life skills, such as problem-solving, responsibility, communication and decision-making skills, which enable young people to successfully resist social and other pressures to engage in activities which are destructive to their health and future. The Legislature encouraged all school districts to adopt as a goal for the year 1990 the full implementation of drug and alcohol abuse prevention programs in their schools. In order to expand and enhance the ability of school districts to implement drug and alcohol prevention programs, it is the intent of the Legislature that local school districts participate in the federal Drug-Free Schools and Communities Act of 1986, 20 U.S.C., Section 4601 et seq. and the provisions of Public Law No. 101-647, Drug-Free School Zones.

In order to derive maximum benefit from their drug and alcohol prevention programs, it is further the intent of the Legislature that the school districts coordinate their efforts and activities with the Oklahoma Drug and Alcohol Abuse Policy Board, and with appropriate state and local drug and alcohol abuse, health and law enforcement agencies and programs within the community which provide drug education, prevention, treatment and rehabilitation.

It is further the intent of the Legislature to encourage school districts to establish programs concerning the danger and criminal consequences of the possession and/or use of firearms or other dangerous or deadly weapons in school zones. **(70-1210.229-2)**

Section 884. Definitions.

For purposes of the Oklahoma Alcohol and Drug Abuse Prevention and Life Skills Education Act, Section 1210.229-1 et seq. of this title:

1. "Alcohol" means any low-point beer as defined in Section 163.2 of Title 37 of the Oklahoma Statutes or alcoholic beverage as defined in Section 506 of Title 37 of the Oklahoma Statutes;

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

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

4. "Drug" means a controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of Title 63 of the Oklahoma Statutes; and

5. "Life skills" includes but is not limited to fostering skills in responsibility, decision making, communication, self-confidence and goal setting. Life skills shall not include values clarification or sex education. **(70-1210.229-3)**

Section 885. Powers and Duties.

A. The State Superintendent of Public Instruction and State Department of Education in conjunction with the Oklahoma Drug and Alcohol Abuse Policy Board shall:

1. establish objective criteria, guidelines and a comprehensive integrated curriculum for substance abuse programs and the teaching of life skills in local schools and school districts;

2. establish and review annually model policies for alcohol and drug abuse issues, including but not limited to policies regarding disciplinary actions and referral for services;

3. develop and implement strategies which encourage all schools to employ guidance counselors trained in substance abuse prevention and life skills and to develop and begin implementing quality substance abuse and life skills education programs; and

4. develop guidelines and criteria to encourage teachers and administrators to receive in-service training on alcohol and drug abuse. The training or workshops should be included in the staff development point system.

B. The State Department of Education shall distribute information or reports provided by the Oklahoma Drug and Alcohol Abuse Policy Board, to each school district and, upon request, to members of the public. Upon request of the chief administrator of a school or school district, the Department shall provide technical assistance to schools and school districts to implement policies and programs pursuant to guidelines provided by the Oklahoma Drug and Alcohol Abuse Policy Board and shall provide a clearinghouse program accessible by school districts to provide information about life skills and drug and alcohol abuse prevention curricula and programs.

C. Final determination of materials to be used, means of implementation of the curriculum, and ages and times at which students receive instruction about said life skills and drug and alcohol abuse prevention shall be made by the local school board. The local school district, at least one (1) month prior to giving such instruction to students, shall conduct for parents and guardians of students involved, during weekend or evening hours, at least one presentation concerning the plans for instruction and the materials to be used. No student shall be required to receive instruction about said life skills and drug and alcohol abuse prevention if a parent or guardian of the student objects in writing. **(70-1210.229-5)**

Section 886. Oklahoma School Testing Program Act.

Sections 1210.505 et seq. of this title shall be known and may be cited as the "Oklahoma School Testing Program Act". **(70-1210.505)**

Section 887. Definitions.

As used in the Oklahoma School Testing Program Act, Section 1210.505 et seq. of this title:

1. "Board" means the State Board of Education;

2. "Department" means the State Department of Education;

3. "Norm-referenced test" means a test which measures skill objectives and enables the tester to compare performance to that of a specified norm group;

4. "Norm group" means a randomly selected group considered to be performing at an average level according to grade placement; and

5. "Criterion-referenced test" means a test which determines whether a student has learned a specific skill. **(70-1210.506)**

Section 888. Implementation and Administration of Act.

A. The State Board of Education shall promulgate rules necessary for the implementation and administration of the provisions of the Oklahoma School Testing Program Act.

B. The State Board of Education shall require school district boards of education to annually provide information to the district's students, parents of students, and the public at large about the proper meaning and use of tests administered pursuant to the provisions of the Oklahoma School Testing Program Act. The Department shall develop materials and make them available to school districts regarding the Oklahoma School Testing Program.

C. Students enrolled in an online course or program that is offered by a school district or charter school that is not the district of residence or is not located in the district of residence of the student shall be provided the opportunity to take any test required pursuant to the Oklahoma School Testing Program Act or any other test generally required of students by the school district in which the student is enrolled at an alternative testing location approved by the State Board of Education. The alternative testing locations may be at sites that are not in the school district that is offering the online course or program or the district of residence. Alternative testing locations may include technology center school sites or any other testing location selected by the school district or charter school offering the online course or program. All alternative testing locations shall be subject to testing location rules promulgated by the State Board of Education. The school district or charter school offering the online course or program shall be responsible for any cost incurred in providing an alternative testing location and any additional cost of administering a test at an alternative testing location. In order to provide alternative testing locations at geographically dispersed sites, the school district or charter school offering the online course or program shall, at a minimum, provide not less than six alternative testing locations, with at least one location in each quadrant of the state and in each of the two metropolitan areas in the state. Additional alternative testing locations may be provided by the school district or charter school offering the online course or program.

D. The State Board of Education shall seek to establish and post on the Internet a sample test item bank that will be made available to teachers and will allow them to create and deliver classroom assessments throughout the school year to check for student mastery of key concepts assessed by the criterion-referenced tests administered to students pursuant to the Oklahoma School Testing Program Act. Subject to the availability of funds, the Board shall annually release end-of-instruction test items and make them available to the public.

E. The State Board of Education shall post on the Internet criterion-referenced sample tests for each grade level and subject matter test administered to students pursuant to the Oklahoma School Testing Program Act for the purpose of communicating expectation concerning test difficulty level and format to teacher, parents and students. The Board shall maintain the sample tests on the Internet throughout the year and, as changes are made in the state academic content standards, known as the Priority Academic Student Skills Curriculum, the Board shall update the sample tests. The Board shall seek to expand the number of sample test items each year and to revise test items as needed. The sample tests shall reflect the actual test administered to students and may contain questions used on actual tests given in previous years.

F. The State Board of Education shall seek to implement an electronic delivery system for all tests administered pursuant to the Oklahoma School Testing Program Act that will allow students to participate in computer-based assessments in order to expedite the delivery and use of the test results. **(70-1210.507)**

Section 889. Test for Students - Norm-Referenced - Writing Assessment - Criterion - Referenced.

A. 1. The State Board of Education shall develop and administer a series of criterion-referenced tests designed to indicate whether the state academic content standards, as defined by the State Board of Education in the Priority Academic Student Skills Curriculum, which Oklahoma public school students are expected to have attained have been achieved. The Board may develop and administer any criterion-referenced test in any subject not required by federal law, contingent upon the availability of funding. Students who do not perform at least at the proficient level on tests shall be remediated, subject to the availability of funding.

2. Contingent upon the availability of state and federal funds, the Board, in accordance with federal law, shall administer criterion-referenced tests for grades three and four in:

a. reading, and

b. mathematics.

3. Contingent upon the availability of funds, the Board shall administer criterion-referenced tests for grade five in:

a. reading,

b. mathematics,

c. science,

d. social studies, which shall consist of the history, Constitution and government of the United States, and geography, and

e. writing of English.

4. Contingent upon the availability of state and federal funds, the Board, in accordance with federal law, shall administer criterion-referenced tests for grades six and seven in:

a. reading, and

b. mathematics.

In addition, the Board shall administer a criterion-referenced test in geography in grade seven.

5. Contingent upon the availability of funds, the Board shall administer criterion-referenced tests for grade eight in:

a. reading,

b. mathematics,

c. science,

d. social studies, which shall consist of the history, Constitution, and government of the United States, and

e. writing of English.

The Board shall administer the tests for grade eight in reading and mathematics online with raw score test results reported immediately and complete results reported in less than two (2) weeks beginning in the 2007-08 school year.

6. Each student who completes the instruction for English II, English III, United States History, Biology I, Algebra I, Geometry, and Algebra II at the secondary level shall complete an end-of-instruction test, when implemented, to measure for attainment in the appropriate state academic content standards in order to graduate from a public high school with a standard diploma. All students shall take the tests prior to graduation, unless otherwise exempt by law. The State Board of Education shall administer the criterion-referenced tests. The Board shall develop and field test the end-of-instruction tests in English III, Geometry, and Algebra II during the 2006-07 school year, implement the tests during the 2007-08 school year, and administer them each year thereafter. The Board shall administer the multiple choice portion of the end-of-instruction tests online with raw score test results reported immediately and complete results reported in less than two (2) weeks beginning in the 2008-09 school year.

The end-of-instruction tests shall serve the purpose of the criterion-referenced tests as provided in paragraph 1 of this subsection. The English II and English III end-of-instruction tests shall include a writing component. Students who do not score at least at the proficient level shall be afforded the opportunity to retake each test up to three (3) times each calendar year until at least achieving at the proficient level. In order to provide an indication of the levels of

competency attained by the student in a permanent record for potential future employers and institutions of higher education, for students who enter the ninth grade in or prior to the 2007-08 school year, school districts shall report the highest achieved state test performance level on the end-of-instruction tests on the student's high school transcript. Beginning with students who enter the ninth grade in the 2008-09 school year, school districts shall report the student's performance levels on the end-of-instruction tests and any business and industry-recognized endorsements attained on the student's high school transcript. Any student at the middle school level who completes the instruction in a secondary course specified in this paragraph shall be administered the appropriate end-of-instruction test.

7. a. Each school district shall administer to each student in the school district in grades three through eight an assessment designed to assess the student in the fine arts area in which the student has received instruction.

b. Each school district shall prepare an annual report for approval by the State Board of Education outlining the fine arts assessment strategies used by the district, when the assessments were administered, how many students were assessed during the previous year, and the results of the assessments.

B. 1. All criterion-referenced tests required by this section shall measure academic competencies in correlation with the state academic content standards adopted by the Board pursuant to Section 11-103.6 of this title and known as the Priority Academic Student Skills Curriculum. The State Board of Education shall evaluate the academic content standards to ensure the competencies reflect high standards, are specific, well-defined, measurable, challenging, and will prepare elementary students for next-grade-level course work and secondary students for postsecondary studies at institutions of higher education or technology center schools without the need for remediation in core curriculum areas. All state academic content standards shall reflect the benchmarks of the American Diploma Project and the goal of improving the state average ACT score.

2. The State Department of Education shall annually evaluate the results of the criterion-referenced tests. The State Board of Education shall ensure that test results are reported to districts in a manner that yields detailed, diagnostic information for the purpose of guiding instruction and student remediation. As improvements are made to the criterion-referenced tests required by this section, the Board shall seek to increase the depth of knowledge assessed for each subject. The State Board of Education shall seek to ensure that data yielded from the tests required in this section are utilized at the school district level to prescribe reinforcement and/or remediation by requiring school districts to develop and implement a specific program of improvement based on the test results.

3. The State Board of Education in coordination with the Educational Quality and Accountability Board shall review, realign, and recalibrate, as necessary, the tests in reading and mathematics in third through eighth grade and the end-of-instruction tests. The State Board of Education shall determine the cut scores for the performance levels on the end-of-instruction tests developed pursuant to paragraph 6 of subsection A of this section, which shall be phased in over a multi-year period. The State Board of Education shall conduct an ongoing review to compare the end-of-instruction test content and performance descriptors with those of other states. Upon receipt of the review, the State Board of Education may adjust the cut scores as necessary.

4. The State Board of Education, for the purposes of conducting reliability and validity studies, monitoring contractor adherence to professionally accepted testing standards, and providing recommendations for testing program improvement, shall retain the services of an established, independent agency or organization that is nationally recognized for its technical expertise in educational testing but is not engaged in the development of aptitude or achievement tests for elementary or secondary level grades. These national assessment experts shall annually conduct studies of the reliability and validity of the end-of-instruction tests administered pursuant to this section. Validity studies shall include studies of decision validity, concurrent validity and the validity of performance level cut scores.

C. 1. The State Board of Education shall set the testing window dates for each criterion-referenced test required in paragraphs 1 through 5 of subsection A of this section for grades three through eight so that, with the exception of the writing assessments, the tests are administered to students no earlier than April 10 each year and so that the test results are reported back to school districts in a timely manner. Each criterion-referenced test required in paragraph 6 of subsection A of this section may be administered to students at a time set by the State Board of Education as near as possible to the end of the course; provided, if a school district is unable to administer the tests online to all students taking the test for the first time and all students retaking the test during the testing window time set by the Board, the school district may elect to administer any of the tests to students retaking the test at any time not more than two (2) weeks prior to the start of the testing window time set by the Board. All results and reports of the criterion-referenced test series required in paragraphs 1 through 5 of subsection A of this section for grades three through eight shall be

returned to each school district prior to the beginning of the next school year. The vendor shall provide a final electronic data file of all school site, school district, and state results to the State Department of Education and the Office of Accountability prior to September 1 of each year. The Department shall forward the final data files for each school district and each school site in that district to the school district. The Board shall ensure the contract with the testing vendor includes a provision that the vendor report test results directly to the Office of Accountability at the same time it is reported to the Board.

2. State, district, and site level results of all tests required in this section shall be disaggregated by gender, race ethnicity, disability status, migrant status, English proficiency, and status as economically disadvantaged, except that such disaggregation shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student. Each school site shall notify the student's parents of the school's performance levels in the Oklahoma School Testing Program as reported in the Oklahoma Educational Indicators Program at the end of each school year.

D. The State Board of Education shall be responsible for the development, field-testing, and validation of the criterion-referenced test series required in subsection A of this section. In the interest of economy the Board shall adapt criterion-referenced tests that have been developed by or in collaboration with other states or are otherwise commercially available, or portions of such tests, to the extent that such tests are appropriate for use in the testing program to be administered to Oklahoma students.

E. The State Board of Education shall develop, administer, and incorporate as a part of the Oklahoma School Testing Program, other testing programs or procedures, including appropriate accommodations for the testing of students with disabilities as required by the Individuals with Disabilities Education Act (IDEA), 20 USC, Section 1400 et seq. **(70-1210.508)**

Note: Amended by HB 1680, Sec. 1 of the 2011 Reg. Sess. Effective November 1, 2011.

Section 889.1. Reading Sufficiency Act.

Sections 1210.508A through 1210.508E of this title shall be known and may be cited as the "Reading Sufficiency Act". **(70-1210.508A)**

Section 889.2. Purpose.

A. The Legislature finds that it is essential for children in the public schools to read early and well in elementary school. The Legislature further finds that clear and visible goals, assessments to determine the reading level at each elementary school, annual measurements of elementary school reading improvement, and accountability in each level of the educational system will result in a significant increase in the number of children reading at or above grade level.

B. The purpose of the Reading Sufficiency Act is to ensure that each child attains the necessary reading skills by completion of the third grade which will enable that student to continue development of reading skills and to succeed throughout school and life.

C. Each public school district in this state shall ensure that a majority of the instructional time each day of the school year in kindergarten through third grade is focused on reading and mathematics. The State Board of Education shall encourage school districts to integrate the teaching of the other curricular areas in the Priority Academic Student Skills (PASS) adopted by the Board with the instruction of reading and mathematics. All teachers of reading in the public schools in this state in kindergarten through third grade shall incorporate into instruction the five elements of reading instruction which are phonemic awareness, phonics, reading fluency, vocabulary, and comprehension.

D. The reading goal for Oklahoma public schools is as follows: By July 1, 2008, and each year thereafter, all third-grade students will read at or above grade level by the end of their third-grade year, excluding up to fifteen percent (15%) of those students who have an individualized education program (IEP), pursuant to the Individuals with Disabilities Education Act (IDEA), and excluding those students who are English language learners who have been determined not to be proficient in English as defined by a state-designated English proficiency assessment. To achieve the reading goal, each public elementary school shall:

1. Determine its baseline no later than September 1, 2005, which shall be the percentage of students reading at or above third-grade level as determined by the percentage of students scoring proficient or above on the third-grade criterion-referenced test in reading, administered pursuant to Section 1210.508 of this title; and

2. Set and achieve annual improvement goals necessary to progress from the baseline established in 2005 to the reading goal by July 1, 2008. The annual improvement goals shall be included in the district's reading sufficiency plan required in Section 1210.508C of this title.

E. The State Board of Education shall recognize schools and districts that attain or make progress toward achieving the reading goal and shall provide technical assistance to schools and districts that do not make progress toward the reading goal. The district reading sufficiency plan shall be submitted to the State Board if the district has any schools that are not achieving the required annual improvement goals pursuant to this section. **(70-1210.508B)**

Note: Amended by HB 1269, Sec. 1 of the 2011 Reg. Sess.

Section 889.3. Assessment of Students - Requirements of Program.

A. 1. Each student enrolled in kindergarten in a public school in this state shall be screened for reading skills including, but not limited to, phonological awareness, letter recognition, and oral language skills as identified in the Priority Academic Student Skills (PASS) adopted by the State Board of Education. A screening instrument approved by the State Board shall be utilized for the purposes of this section.

2. For those kindergarten children at risk for reading difficulties, teachers shall emphasize reading skills as identified in the PASS, monitor progress throughout the year and measure year-end reading progress.

3. Classroom assistants, which may include parents, grandparents, or other volunteers, shall be provided in kindergarten classes to assist with the screening of students if a teacher aide is not already employed to assist in a kindergarten classroom.

B. 1. Each student enrolled in first, second and third grade of the public schools of this state shall be assessed at the beginning of each school year using a screening instrument approved by the State Board of Education for the acquisition of reading skills including, but not limited to, phonological awareness, phonics, spelling, reading fluency, vocabulary, and comprehension.

2. Any student who is assessed and found not to be reading at the appropriate grade level shall be provided a program of reading instruction designed to enable the student to acquire the appropriate grade level reading skills. Beginning with students entering the first grade in the 2011-2012 school year, the program of reading instruction shall include provisions of the READ Initiative adopted by the school district as provided for in subsection N of this section. If a student is found not to be reading at the appropriate grade level and teachers, in collaboration with others, are concerned that undiagnosed health problems may affect the ability of the student to read, the school district may make a recommendation to the parents or legal guardians for medical evaluation without being liable for cost of the evaluation or any associated costs.

3. Throughout the year progress monitoring shall continue, and diagnostic assessment, if determined appropriate, shall be provided. Year-end reading skills shall be measured to determine reading success.

C. The State Board of Education shall approve no more than three screening instruments for use at the beginning of the school year, for monitoring of progress, and for measurement of reading skills at the end of the school year as required in subsections A and B of this section; provided, one of the screening instruments shall be recommended by the Oklahoma Commission for Teacher Preparation. The State Board shall also determine other comparable reading assessments for diagnostic purposes and for periodic and post assessments to be used for students at risk of reading failure. The State Board shall ensure that any assessments approved are in alignment with the PASS.

D. The program of reading instruction required in subsection B of this section shall align with the PASS, shall include provisions of the READ Initiative adopted by the school district as provided for in subsection N of this section beginning with students entering the first grade in the 2011-2012 school year and may include, but is not limited to:

1. Sufficient additional in-school instructional time for the acquisition of phonological awareness, phonics, spelling, reading fluency, vocabulary, and comprehension;

2. If necessary, tutorial instruction after regular school hours, on Saturdays and during summer; however, such instruction may not be counted toward the one-hundred-eighty-day school year required in Section 1-109 of this title; and

3. Assessments identified for diagnostic purposes and periodic monitoring to measure the acquisition of reading skills including, but not limited to, phonological awareness, phonics, spelling, reading fluency, vocabulary, and comprehension, as identified in the student's program of reading instruction.

E. The program of reading instruction shall continue until the student is determined by the results of approved reading assessments to be reading on grade level.

F. 1. Every school district shall adopt, implement, and annually update a district reading sufficiency plan which has had input from school administrators, teachers, and parents and if possible a reading specialist, and which shall be submitted to and approved by the State Board of Education as a part of each district's Comprehensive Local Education Plan. The district reading sufficiency plan shall include a plan for each site which includes an analysis of the data provided by the Oklahoma School Testing Program and other reading assessments utilized as required in this section, and which outlines how each school site will comply with the provisions of the Reading Sufficiency Act.

2. Each school site shall establish a committee, composed of educators, which if possible shall include a certified reading specialist, to develop the required programs of reading instruction. A parent or guardian of the student shall be included in the development of the program of reading instruction for that student.

3. The State Board of Education shall adopt rules for the implementation and evaluation of the provisions of the Reading Sufficiency Act. The evaluation shall include, but not be limited to, an analysis of the data required in subsection R of this section.

G. For any third-grade student found not to be reading at grade level as determined by reading assessments administered pursuant to this section, a new program of reading instruction, including provisions of the READ Initiative adopted by the school district as provided for in subsection N of this section, shall be developed and implemented as specified in this section. If possible, a fourth-grade teacher shall be involved in the development of the program of reading instruction. In addition to other requirements of the Reading Sufficiency Act, the plan may include specialized tutoring.

H. Beginning with students entering the first grade in the 2011-2012 school year, if the reading deficiency of a student, as identified based on assessments administered as provided for in subsection B of this section, is not remedied by the end of third grade, as demonstrated by scoring at the unsatisfactory level on the reading portion of the third-grade criterion-referenced test administered pursuant to Section 1210.508 of this title, the student shall be retained in the third grade.

I. The parent of any student who is found to have a reading deficiency and is not reading at the appropriate grade level and has been provided a program of reading instruction as provided for in subsection B of this section shall be notified in writing of the following:

1. That the student has been identified as having a substantial deficiency in reading;

2. A description of the current services that are provided to the student;

3. A description of the proposed supplemental instructional services and supports that will be provided to the student that are designed to remediate the identified area of reading deficiency;

4. That the student will not be promoted to the fourth grade if the reading deficiency is not remediated by the end of the third grade, unless the student is exempt for good cause as set forth in subsection K of this section;

5. Strategies for parents to use in helping their child succeed in reading proficiency;

6. That while the results of the criterion-referenced test administered pursuant to Section 1210.508 of this title are the initial determinant, it is not the sole determiner of promotion and that portfolio reviews and assessments are available; and

7. The specific criteria and policies of the school district for midyear promotion implemented as provided for in paragraph 4 of subsection M of this section.

J. No student may be assigned to a grade level based solely on age or other factors that constitute social promotion.

K. For those students who do not meet the academic requirements for promotion, a school district may promote the student for good cause only. Good-cause exemptions for promotion shall be limited to the following:

1. Limited-English-proficient students who have had less than two (2) years of instruction in an English language learner program;

2. Students with disabilities whose individualized education plan (IEP), consistent with state law, indicates that participation in the statewide criterion-referenced tests administered pursuant to Section 1210.508 of this title is not appropriate;

3. Students who demonstrate an acceptable level of performance on an alternative standardized reading assessment approved by the State Board of Education;

4. Students who demonstrate, through a student portfolio, that the student is reading on grade level as evidenced by demonstration of mastery of the state standards beyond the retention level;

5. Students with disabilities who participate in the statewide criterion-referenced tests and who have an individualized education plan that reflects that the student has received intensive remediation in reading for more than two (2) years but still demonstrates a deficiency in reading and was previously retained in kindergarten, first grade, second grade, or third grade; and

6. Students who have received intensive remediation in reading through a program of reading instruction for two (2) or more years but still demonstrate a deficiency in reading and who were previously retained in kindergarten, first grade, second grade, or third grade for a total of two (2) years. A student who is promoted as provided for in this paragraph shall be provided intensive reading instruction during an altered instructional day that includes specialized diagnostic information and specific reading strategies for each student. The school district shall assist schools and teachers to implement reading strategies for the promoted students that research has shown to be successful in improving reading among low-performing readers.

L. In addition to the good-cause exemptions as set forth in subsection K of this section, requests to exempt students from the academic requirements for promotion to the next grade shall only be made upon documentation submitted from the teacher of the student to the school principal that indicates that the promotion of the student is appropriate and is based upon the record of the student. In order to minimize paperwork requirements, documentation shall consist only of a student portfolio.

M. Beginning with the 2011-2012 school year, each school district shall:

1. Conduct a review of the program of reading instruction for all students who score at the unsatisfactory level on the reading portion of the criterion-referenced test administered pursuant to Section 1210.508 of this title and did not meet the criteria for one of the good-cause exemptions as set forth in subsection K of this section. The review shall address additional supports and services, as described in this subsection, needed to remediate the identified areas of reading deficiency. The school district shall require a student portfolio to be completed for each retained student;

2. Provide to students who have been retained as set forth in subsection H of this section with intensive interventions in reading, intensive instructional services and supports to remediate the identified areas of reading deficiency, including a minimum of ninety (90) minutes of daily, uninterrupted, scientific-research-based reading instruction. Retained students shall be provided other strategies prescribed by the school district, which may include, but are not limited to:

a. small group instruction,

b. reduced teacher-student ratios,

c. more frequent progress monitoring,

d. tutoring or mentoring,

e. transition classes containing third- and fourth-grade students,

f. extended school day, week, or year, and

g. summer reading academies as provided for in Section 1210.508E of this title, if available;

3. Provide written notification to the parent or guardian of any student who is to be retained as set forth in subsection H of this section that the student has not met the proficiency level required for promotion and the reasons the student is not eligible for a good-cause exemption. The notification shall include a description of proposed interventions and intensive instructional supports that will be provided to the student to remediate the identified areas of reading deficiency;

4. Implement a policy for the midyear promotion of a retained student who can demonstrate that the student is a successful and independent reader, is reading at or above grade level, and is ready to be promoted to the fourth grade. Tools that school districts may use in reevaluating any retained student may include subsequent assessments, alternative assessments, and portfolio reviews, in accordance with rules of the State Board of Education. Retained students may only be promoted midyear prior to November 1 and only upon demonstrating a level of proficiency required to score above the unsatisfactory level on the third-grade statewide criterion-referenced test and upon showing progress sufficient to master appropriate fourth-grade-level skills, as determined by the school. A midyear promotion shall be made only upon agreement of the parent or guardian of the student and the school principal;

5. Provide students who are retained with a high-performing teacher who can address the needs of the student, based on student performance data and above-satisfactory performance appraisals; and

6. In addition to required reading enhancement and acceleration strategies, provide students who are retained with at least one of the following instructional options:

a. supplemental tutoring in scientific-research-based reading services in addition to the regular reading block, including tutoring before or after school,

b. a parent-guided "Read at Home" assistance plan, as developed by the State Department of Education, the purpose of which is to encourage regular parent-guided home reading, or

c. a mentor or tutor with specialized reading training.

N. Beginning with the 2011-2012 school year, each school district shall establish a Reading Enhancement and Acceleration Development (READ) Initiative. The focus of the READ Initiative shall be to prevent the retention of third-grade students by offering intensive accelerated reading instruction to third-grade students who failed to meet standards for promotion to fourth grade and to kindergarten through third-grade students who are exhibiting a reading deficiency. The READ Initiative shall:

1. Be provided to all kindergarten through third-grade students at risk of retention as identified by the assessments administered pursuant to the Reading Sufficiency Act. The assessment used shall measure phonemic awareness, phonics, fluency, vocabulary, and comprehension;

2. Be provided during regular school hours in addition to the regular reading instruction; and

3. Provide a state-approved reading curriculum that, at a minimum, meets the following specifications:

a. assists students assessed as exhibiting a reading deficiency in developing the ability to read at grade level,

b. provides skill development in phonemic awareness, phonics, fluency, vocabulary, and comprehension,

c. provides scientifically based and reliable assessment,

d. provides initial and ongoing analysis of the reading progress of each student,

e. is implemented during regular school hours,

f. provides a curriculum in core academic subjects to assist the student in maintaining or meeting proficiency levels for the appropriate grade in all academic subjects,

g. establishes at each school, where applicable, an Intensive Acceleration Class for retained third-grade students who subsequently score at the unsatisfactory level on the reading portion of the statewide criterion-referenced tests. The focus of the Intensive Acceleration Class shall be to increase the reading level of a child at least two grade levels in one (1) school year. The Intensive Acceleration Class shall:

(1) be provided to any student in the third grade who scores at the unsatisfactory level on the reading portion of the statewide criterion-referenced tests and who was retained in the third grade the prior year because of scoring at the unsatisfactory level on the reading portion of the statewide criterion-referenced tests,

(2) have a reduced teacher-student ratio,

(3) provide uninterrupted reading instruction for the majority of student contact time each day and incorporate opportunities to master the fourth-grade state standards in other core subject areas,

(4) use a reading program that is scientific-research-based and has proven results in accelerating student reading achievement within the same school year,

(5) provide intensive language and vocabulary instruction using a scientific-research-based program, including use of a speech-language therapist,

(6) include weekly progress monitoring measures to ensure progress is being made, and

(7) provide reports to the State Department of Education, in the manner described by the Department, outlining the progress of students in the class at the end of the first semester,

h. provide reports to the State Board of Education, upon request, on the specific intensive reading interventions and supports implemented by the school district. The State Superintendent of Public Instruction shall annually prescribe the required components of the reports, and

i. provide to a student who has been retained in the third grade and has received intensive instructional services but is still not ready for grade promotion, as determined by the school district, the option of being placed in a transitional instructional setting. A transitional setting shall specifically be designed to produce learning gains sufficient to meet fourth-grade performance standards while continuing to remediate the areas of reading deficiency.

O. In addition to the requirements set forth in this section, each school district board of education shall annually report to the parent or guardian of each student in the district the progress of the student toward achieving state and district expectations for proficiency in reading, writing, science, and mathematics. The school district board of education shall report to the parent or guardian of each student the results on each statewide criterion-referenced test.

The evaluation of the progress of each student shall be based upon classroom work, observations, tests, district and state assessments, and other relevant information. Progress reporting shall be provided to the parent or guardian in writing.

P. 1. Each school district board of education shall annually publish on the school website, and report in writing to the State Board of Education by September 1 of each year, the following information on the prior school year:

a. the provisions of this section relating to public school student progression and the policies and procedures of the school district on student retention and promotion,

b. by grade, the number and percentage of all students in grades three through ten performing at the unsatisfactory level on the reading portion of the statewide criterion-referenced tests,

c. by grade, the number and percentage of all students retained in grades three through ten,

d. information on the total number and percentage of students who were promoted for good cause, by each category of good cause as specified above, and

e. any revisions to the policies of the school district on student retention and promotion from the prior year.

2. The State Department of Education shall establish a uniform format for school districts to report the information required in this subsection. The format shall be developed with input from school districts and shall be provided not later than ninety (90) days prior to the annual due date. The Department shall annually compile the information required along with state-level summary information, and report the information to the public, the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

Q. The State Department of Education shall provide technical assistance as needed to aid school districts in administering the provision of the Reading Sufficiency Act.

R. On or before December 1 of each year, the State Department of Education shall issue to the Governor and members of the Senate and House of Representatives Education Committees a Reading Report Card for the state and each school district and elementary site which shall include, but is not limited to, trend data detailing three (3) years of data, disaggregated by student subgroups to include economically disadvantaged, major racial or ethnic groups, students with disabilities, and English language learners, as appropriate for the following:

1. The number and percentage of students in kindergarten through third grade determined to be at risk for reading difficulties compared to the total number of students enrolled in each grade;

2. The number and percentage of students in kindergarten who continue to be at risk for reading difficulties as determined by the year-end measurement of reading progress;

3. The number and percentage of students in first through third grade who have successfully completed their program of reading instruction and are reading on grade level as determined by the results of approved reading assessments;

4. The number and percentage of students scoring at each performance level on the third-grade criterion-referenced test in reading;

5. The amount of funds for reading remediation received by each district;

6. An evaluation and narrative interpretation of the report data analyzing the impact of the Reading Sufficiency Act on students' ability to read at grade level; and

7. Any recommendations for improvements or amendments to the Reading Sufficiency Act.

The State Department of Education may contract with an independent entity for the reporting and analysis requirements of this subsection.

S. Copies of the results of the assessments administered shall be made a part of the permanent record of each student. **(70-1210.508C)**

Note: Amended by SB 346, Sec. 1 of the 2011 Reg. Sess.

Section 889.4. Funds for Remediation - Reading Sufficiency Act.

A. Contingent on the provision of appropriated funds designated for the Reading Sufficiency Act, school districts may be reimbursed in the amount of up to One Hundred Fifty Dollars ($150.00) for each enrolled first-, second- and third-grade student of the current school year, including any student who has been retained in the third grade pursuant to Section 1210.508C of this title, who is found to be in need of remediation in reading. The reimbursement shall be for expenses incurred in reading assessment and remediation at those grade levels pursuant to the provisions of the Reading Sufficiency Act. School districts may be reimbursed up to Four Hundred Dollars ($400.00) for each student completing the third grade, including any student who has been retained in the third grade pursuant to Section 1210.508C of this title, who is found not to be reading at the third-grade level and who subsequently participates in a summer reading remediation program. A school district which has ten or fewer students participating in a summer reading remediation program may be allocated a base amount of One Thousand Five Hundred Dollars ($1,500.00) for the program which shall be in addition to the per-student reimbursement amount provided for in this subsection. The State Board of Education shall promulgate rules for such a course that specify at least four (4) weeks of tutoring a half (½) day each day. The summer reading remediation programs shall be taught by teachers who have successfully completed a professional development institute in reading administered by the Oklahoma Commission for Teacher Preparation or a scientifically-based reading professional development program administered by the State Board of Education.

B. In order to be reimbursed, school districts shall file a claim with the State Department of Education at the end of each school semester or prior to the end of the fiscal year in which the remediation is provided. Claims from summer remediation provided in July or August shall be filed with the first semester claim of the subsequent school year. Claims shall be reimbursed in a timely manner. The State Board of Education shall promulgate rules for the administration of reimbursements.

C. If a teacher attends and completes a professional development institute in elementary reading approved by the Oklahoma Commission for Teacher Preparation during the summer or when school is not in session, the teacher shall receive a stipend equal to the amount of the cost for a substitute teacher, based on the amount of funds allocated. **(70-1210.508D)**

Note: Amended by SB 346, Sec. 2 of the 2011 Reg. Sess.

Section 889.4.1. Reading Training for Elementary Teachers.

A. The State Board of Education shall ensure that the reading competencies for elementary teachers are included in the competencies for special education teachers.

B. The State Board of Education and the Oklahoma Commission for Teacher Preparation in collaboration with the Oklahoma State Regents for Higher Education shall ensure that all teachers of early childhood education, elementary education, and special education are provided quality training in intervention, instruction, and remediation strategies in order to meet the needs of students in kindergarten through third grade who are determined to be at risk of reading difficulties.

C. Beginning with the 2010-2011 school year, all institutions within The Oklahoma State System of Higher Education that offer elementary, early childhood education, or special education programs approved by the Oklahoma Commission for Teacher Preparation shall incorporate into those programs the requirement that teacher candidates study the five elements of reading instruction which are phonemic awareness, phonics, reading fluency, vocabulary, and comprehension.

D. Effective July 1, 2010, teacher candidates enrolled in an institution within The Oklahoma State System of Higher Education in an elementary, early childhood education, or special education program approved by the Oklahoma Commission for Teacher Preparation shall pass, prior to graduation, a comprehensive assessment to measure their

teaching skills in the area of reading instruction. The assessment shall be developed and administered by the institutions that offer elementary, early childhood education, or special education programs that lead to certification. The assessment shall measure the knowledge and understanding of the teacher candidate in the teaching of the five elements of reading instruction which are phonemic awareness, phonics, reading fluency, vocabulary, and comprehension. The results of the assessment shall be reported annually by the institution to the Oklahoma Commission for Teacher Preparation as a part of the required annual report for the institution. The Commission shall include the data in the annual report to the Oklahoma Legislature as required pursuant to Section 6-186 of this title. It is the intent of the Legislature to ensure that teachers graduating from institutions within The Oklahoma State System of Higher Education have the knowledge and skills to effectively teach reading to all children. **(70-1210.508F)**

Section 889.5. Criterion - Referenced Test in Geography.

Contingent upon the availability of funds for the 1999-2000 school year, the State Board of Education shall continue to administer the criterion-referenced test in Geography to students in the eleventh grade in order to monitor the progress of Oklahoma students as compared to the benchmark standard set in the 1997-1998 school year as was required by the Oklahoma School Testing Program Act, Section 1210.505 et seq. of Title 70 of the Oklahoma Statutes. Results of the criterion-referenced test in Geography shall continue to be returned and reported pursuant to the requirements of the Oklahoma School Testing Program Act. **(70-1210.508-1)**

Section 889.6. Promotion of Students based on Competencies.

A. If a teacher determines that a third-grade student is not reading at grade level by the end of the second quarter of the school year, the parent or guardian of the student shall be notified of:

1. The reading level of the student;

2. The program of reading instruction for the student as required pursuant to the Reading Sufficiency Act; and

3. The potential need for the student to participate in a summer academy or other program designed to assist the student in attaining grade-level reading skills.

B. A teacher who determines a third-grade student is unable to meet competencies required for reading for completion of third grade and promotion to fourth grade shall, after consultation with the parent or guardian of the student, recommend that the promotion of the student to the fourth grade is contingent upon the participation in and successful completion of the required competencies for reading by the student at a summer academy or other program. If the student does not participate in the summer academy or other program or does not successfully complete the competencies in the summer academy or other program, the student shall be retained in the third grade as set forth in Section 1210.508C of this title.

C. Summer academy programs shall be designed to ensure that participating students successfully complete the competencies necessary in reading for promotion to fourth grade and to enhance next-grade readiness. A summer academy reading program shall be a program that incorporates the content of a scientifically research-based professional development program administered by the Oklahoma Commission for Teacher Preparation or a scientifically based reading program administered by the State Board of Education and is taught by teachers who have successfully completed professional development in the reading program or who are certified as reading specialists.

D. School districts may approve an option for students who are unable to attend a summer academy. The optional program may include, but is not limited to, an approved private provider of instruction, approved computer- or Internet-based instruction, or an approved program of reading instruction monitored by the parent or guardian. School districts shall not be required to pay for the optional program, but shall clearly communicate to the parent or guardian the expectations of the program and any costs that may be involved.

E. Subject to the availability of funds, beginning one (1) year after implementation of this section, the requirements of subsection B of this section shall be expanded to apply to fourth-grade student promotion to fifth grade. Each year thereafter, the requirements shall be expanded by one grade level until the requirements apply to third-grade students through eighth-grade students. Summer academy programs shall be designed for each grade level. Nothing

in this section shall prevent the State Board of Education or a school district board of education from utilizing private, local, or federal funds to implement this section.

F. The provisions of this section shall not apply to:

1. Students who have individualized education programs pursuant to the Individuals with Disabilities Education Act (IDEA) and who satisfy the annual goals of the individualized education program for that student; and

2. Students who are English language learners who have been determined not to be proficient in English as defined by a state-designated English proficiency assessment. A third-grade student who is an English language learner and is found not to be reading at the third-grade level shall be eligible to participate in a summer reading remediation program.

G. The State Board of Education shall adopt rules to implement the provisions of this section which shall include requirements for instructional time for summer school programs, teacher qualifications, and evaluation of student achievement as a result of summer academy programs or other optional programs. **(70-1210.508E)**

Note: Amended by SB 346, Sec. 3 of the 2011 Reg. Sess.

Section 889.7. Mathematics Remediation.

A. Contingent upon the provision of appropriated funds designated for such purpose, students who do not perform satisfactorily on the mathematics portion of either the norm-referenced or criterion-referenced tests for grades three through eight required pursuant to Section 1210.508 of this title shall be provided remediation. The remediation may include but not be limited to tutorial instruction after regular school hours, on Saturdays and during the summer. Such instruction shall not be counted toward the one-hundred-eighty-day school year required in Section 1-109 of this title.

B. Implementation of this section shall be delayed until the current expenditure per pupil in average daily attendance in public elementary and secondary schools in unadjusted dollars for the 1998-99 school year or any school year thereafter for Oklahoma, as reported by the National Center for Education Statistics annually in the Digest of Education Statistics, reaches at least ninety percent (90%) of the regional average expenditure for that same year, andfunds are provided. For purposes of this section, the regional average expenditure shall consist of the current expenditure per pupil in average daily attendance in public elementary and secondary schools in unadjusted dollars for each of the following states: Arkansas, Colorado, Kansas, Missouri, New Mexico, Oklahoma, and Texas, averaged together. By January 1 of each year, the State Board of Education shall report whether or not the ninety-percent expenditure level has been reached based on information reported annually in the Digest of Education Statistics by the National Center for Education Statistics. This section shall be implemented on July 1 after the first January 1 report verifies that the ninety-percent expenditure level has been reached and funds have been provided for the specific purposes of this section. **(70-1210.5E)**

Section 890. In-service Training for Local School Personnel Who Administer Tests - Reports of Test Results.

A. The Department shall provide inservice training for local school personnel who administer tests required by the Oklahoma School Testing Program Act, Section 1210.505 et seq. of this title.

B. The Board shall require the company or companies providing tests required by the Oklahoma School Testing Program Act, Section 1210.505 et seq. of this title, to submit summary reports of the results by school district to the Department and the respective local school district. Individualized results of the test shall be made available by the local school district to the classroom teachers who instruct the students in the academic areas tested. In every year, prior to the convening of the Legislature, the Board shall give a summary report on the testing results to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate. **(70-1210.509)**

Section 891. Matters not to be Included in Tests.

A. Tests administered pursuant to the provisions of the Oklahoma School Testing Program Act, Section 12 10.505 et seq. of this title, shall not include the use of projective psychological, personality or adjustment tests for the purpose of collecting information relative to the personality, environment, home life, parental or family relationships, economic status, religious beliefs, patriotism, sexual behavior or attitudes or sociological problems of a student.

B. A student whose education is subject to the provisions of an individualized education plan (IEP) pursuant to Public Law 94-142, as amended, shall be tested pursuant to the provisions of the Oklahoma School Testing Program Act, Section 1210.505 et seq. of this title only to the extent specified by the student's individualized education plan. **(70-1210.511)**

Section 892. OSTP Test Materials - Availability to Teacher or Test Monitor Restricted.

A. Except as otherwise provided for in subsection B of this section, no person shall provide any test materials, including, but not limited to, test booklets, administered or intended for administration to any student pursuant to the Oklahoma School Testing Program Act to any teacher employed by any school district in this state or to any other person providing services to a school as a test monitor prior to the date on which the test is administered to the students.

B. Materials furnished by any company providing tests required by the Oklahoma School Testing Program Act, Section 1210.505 et seq. of this title, which are intended to aid teachers, parents or students in the preparation for testing may be provided to students, teachers or any other person providing service to a school as a test monitor.

C. Any person providing any test to a teacher or test monitor in violation of subsection A of this section, upon conviction, shall be guilty of a misdemeanor, punishable by the imposition of a fine not exceeding Two Thousand Five Hundred Dollars ($2,500.00). **(70-1210.512)**

Section 893. Creation of Community Partnership Districts.

A. There are hereby created community partnership districts for services to children and youth.

Each district shall be represented by a board composed of representatives of public and private organizations and private individuals in accordance with the guidelines established by the Oklahoma Commission on Children and Youth. Each community partnership board shall include, but not be limited to, representatives of the Department of Human Services, the Office of Juvenile Affairs, the State Department of Health, the Department of Mental Health and Substance Abuse Services, local school districts, representatives of private child and family services and programs within the district, local business leaders, and parents of children with special needs.

B. The Commission shall designate community partnership districts within the state.

C. Selection of a coordinator and membership of community partnership boards shall be determined as follows:

1. Each community partnership board shall elect a coordinator from among its membership. The elected coordinators shall serve two-year terms and may be reelected; and

2. Membership shall be in accordance with the bylaws of the community partnership board and guidelines of the Commission. Board members shall serve a two-year term and may be reappointed.

D. The Oklahoma Commission on Children and Youth shall:

1. Establish guidelines for the election of coordinators of the community partnership boards;

2. Establish guidelines for the membership of the community partnership boards for services to children and youth which will assure an opportunity for broad community participation and the representation of both urban and rural concerns in the planning process;

3. Establish guidelines for the coordination, preparation and implementation of the district plans for children and youth services; and

4. Provide administrative support and technical assistance to the community partnership boards as otherwise provided by this act.

E. Nothing in this act shall prohibit local municipalities or counties from establishing planning and coordinating bodies for services to children and youth and providing information and recommendations to the community partnership boards established by this section. **(10-601.11)**

Section 893.1. Duties of Community Partnership Board.

A. Each community partnership board shall, with the assistance of the Office of Planning and Coordination for Services to Children and Youth, prepare and implement a district plan for children and youth services and for the development and coordination of such services within its district. The district plans shall be transmitted to the Office of Planning and Coordination for Services to Children and Youth and the Oklahoma Commission on Children and Youth, for such entities' review and use in the preparation of the State Plan for Services to Children and Youth.

B. Each community partnership board shall assist in the development of interagency agreements that ensure that services provided to students pursuant to the Individuals with Disabilities Education Act (IDEA) are delivered cooperatively by local education agencies, the State Department of Education, the State Department of Vocational and Technical Education, the Department of Human Services, the Office of Juvenile Affairs, the State Department of Health, the Department of Mental Health and Substance Abuse Services, the State Department of Rehabilitation Services, the Oklahoma Health Care Authority, and other appropriate public agencies and private agencies supported in whole or in part with public funds.

C. Each community partnership board shall develop a written statement clearly identifying its operating procedures, purpose, overall responsibilities and method of meeting those responsibilities.

D. The district plan shall address the needs of children, youth and families as they relate to education, health, mental health, economic security, safety and human services issues, and shall contain:

1. Identified goals, intended outcomes, and priorities for serving children and families;

2. A description of specific needs to be addressed by the plan, as well as services and other support available through public, private, and community-based organizations;

3. A description of the amount of all federal, state and local government, and private funds needed to implement the local plan;

4. A plan for sharing data among agencies and across levels of government in accordance with state and federal law;

5. Recommendations for proposed policy or program changes and alternative funding strategies for meeting identified needs;

6. An implementation strategy and time line; and

7. A description of the resources, types of assistance or training needed in order to implement the plan. **(10-601.12)**

Section 894. Oklahoma Partnership for School Readiness Act.

This act shall be known and may be cited as the "Oklahoma Partnership for School Readiness Act". **(10-640)**

Section 895. Oklahoma Partnership for School Readiness Board.

A. There is hereby created until July 1, 2013, in accordance with the Oklahoma Sunset Law, the Oklahoma Partnership for School Readiness Board. The Board shall promote school readiness supporting community-based efforts to increase the number of children who are ready to succeed by the time they enter school. The Board shall additionally serve as the state's Early Childhood Advisory Council and fulfill the responsibilities described in the Head Start Act of 2007 (PL 110-134, Section 642B). The Board shall consist of representatives from the private and public sectors as follows:

1. Fifteen private sector representatives appointed by the Governor from a list submitted by an existing private-sector school readiness initiative that includes in its focus community mobilization and public engagement activities to include:

a. two parents of children eight (8) years of age or younger, and

b. one representative of licensed child care providers;

2. One representative of the licensed child care industry appointed by the Governor from a list submitted by an association representing the licensed child care industry in this state;

3. One representative of a state association of federally funded early childhood programs appointed by the Governor; and

4. To ensure that existing resources are being utilized effectively, fifteen public sector representatives or their designees as follows:

a. State Superintendent of Public Instruction,

b. State Commissioner of Health,

c. Commissioner of the Department of Mental Health and Substance Abuse Services,

d. Director of the Oklahoma Department of Commerce,

e. Director of the Oklahoma Department of Libraries,

f. Director of the Department of Human Services,

g. Administrator of the Oklahoma Health Care Authority,

h. Director of the Oklahoma Commission on Children and Youth,

i. Director of the State Department of Rehabilitation Services,

j. Executive Director of the Oklahoma Educational Television Authority,

k. Director of the Oklahoma Department of Career and Technology Education,

l. Chancellor of the Oklahoma State Regents for Higher Education,

m. Cabinet Secretary with responsibility for education agencies,

n. Dean of the College of Human Environmental Sciences, Oklahoma State University, and

o. State Director of Head Start Collaboration.

B. Members appointed by the Governor shall serve terms of four (4) years; provided, of those members initially appointed to the Board, eight members shall be appointed for two-year terms, beginning September 1, 2003, and seven

members shall be appointed for four-year terms, beginning September 1, 2003, as designated by the Governor. The member appointed pursuant to paragraph 2 of subsection A of this section shall be appointed for an initial term to end on August 31, 2007. The member appointed pursuant to paragraph 3 of subsection A of this section shall be appointed for an initial term to end on August 31, 2009. Appointed members shall continue in office until a successor is appointed by the Governor. The Governor shall fill all vacancies in the same manner as the original appointment was made.

C. The Director of the Department of Human Services shall convene an organizational meeting of the Oklahoma Partnership for School Readiness Board prior to November 1, 2003, at which time members of the Board shall elect a chair, a vice-chair, and other officers as needed. A majority of the members of the Board shall constitute a quorum for the transaction of business.

D. Members of the Board shall receive no compensation for serving on the Board but shall receive travel reimbursement as follows:

1. State agency officers and employees who are members of the Board shall be reimbursed for travel expenses incurred in the performance of their duties by their respective agencies in accordance with the State Travel Reimbursement Act; and

2. Remaining members shall be reimbursed by the Board from any funds received by the Board for travel expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.

E. Members of the Board shall be exempt from the dual-office-holding provisions of Section 6 of Title 51 of the Oklahoma Statutes. **(10-640.1)**

Section 896. Powers and Duties of Board.

A. The Oklahoma Partnership for School Readiness Board may:

1. Establish guidelines for the disbursement of funds received from any public or private source or otherwise made available to the Board for the purpose of supporting community initiatives that are consistent with the goals of the Oklahoma Partnership for School Readiness Act and direct such other expenditures as may be necessary in the performance of its duties;

2. Establish other guidelines as necessary to carry out the duties and responsibilities assigned to the Oklahoma Partnership for School Readiness Board;

3. Receive funds from any public or private source;

4. Enter into contractual agreements to assist with the administration of the Board and to provide technical assistance to communities upon request;

5. Appoint subcommittees which may include persons who are not Board members. Such persons shall not be entitled to compensation but may be reimbursed, upon approval by the Director of the Department of Human Services, for necessary expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act; and

6. The Board shall ensure, to the greatest extent possible, that the needs and values of all parents are respected and protected and that voluntary participation is the basis for delivering all school readiness programs. The Board shall act in ways which are sensitive to the diverse religious and other values of Oklahomans.

B. The responsibilities of the Oklahoma Partnership for School Readiness Board shall be to:

1. Conduct a thorough assessment of existing public and private programs to determine their effectiveness and to maximize the efficient use of current state funds;

2. Implement a public engagement campaign and establish a structure to facilitate communication between communities;

3. Provide leadership at the state level to encourage communities to develop and improve school readiness opportunities at the local level to encourage and empower local communities;

4. Encourage public and private programs, services, and initiatives be brought together to provide coordinated, community-based, effective and cost-efficient programs;

5. Maximize the extent to which private sector funding is leveraged and federal, state, and local funds are coordinated with private funds;

6. Establish standards of accountability in school readiness programs and policy and recognize and promote the best practices; and

7. Submit an annual report to the Governor and the Legislature no later than November 1 of each year. The report shall include, but not be limited to, the following:

a. preparedness level of children entering kindergarten,

b. status and results of the effort of the Board to engage the public regarding the care and education of children under the age of five (5) years and of the efforts of the Board to develop and promote private sector programs and voluntary parental involvement,

c. detailed summary of community initiatives and programs funded in whole, or in part, by the Board,

d. availability and cost of quality child care for children under five (5) years of age needing care outside their home,

e. number, location, and status of quality prekindergarten programs in the state, and

f. percentage of third-grade students reading at or above grade level.

C. The Department of Human Services shall be the lead public agency for general administration and monitoring of programs and activities related to the Oklahoma Partnership for School Readiness Act.

D. Each of the following agencies shall make staff available to the Oklahoma Partnership for School Readiness Board for the purpose of providing professional consultation and staff support to assist in the implementation of this act:

1. State Department of Education;

2. State Department of Health;

3. Department of Mental Health and Substance Abuse Services;

4. Department of Human Services; and

5. Oklahoma Commission on Children and Youth. **(10-640.2)**

Section 897. School Readiness Foundation.

A. There is hereby authorized the establishment of a not-for-profit school readiness foundation to raise funds and to assist in the implementation of the Oklahoma Partnership for School Readiness Act and the achievement of the goals of the act.

B. Costs to underwrite implementation of the responsibilities of the Oklahoma Partnership for School Readiness Board may be borne from revenues of the foundation.

C. The foundation created pursuant to this section may receive funds from any public or private source to carry out the purposes of this act, including, but not limited to, gifts or grants from any department, agency, or instrumentality of the United States or of this state for any purpose consistent with the provisions of this act.

D. Upon proper incorporation, the foundation shall secure tax-exempt status under the appropriate provision of Section 501(c) of the Internal Revenue Code, 26 U.S.C., Section 501(c).

E. Any member of the foundation who may have a financial interest in an action under consideration by the foundation shall abstain from voting on such matter. **(10-640.3)**

Section 898. Oklahoma Partnership for School Readiness Board: Authority Extended.

The following statutory entities and their successors shall be terminated on July 1, 2013, and all powers, duties and functions shall be abolished one (1) year thereafter:

* * * * *

Oklahoma Partnership for School Readiness Board as created by Section 640.1 of Title 10 of the Oklahoma Statutes. **(74-3904)**

Section 899. Maintenance, Transfer, and Release of Confidential Information Among Governmental and Private Agencies Providing Services to Children.

A. The purpose of this act is to ensure efficient, cost effective delivery of state services and accountability in the delivery of state services to children and their families through the establishment of uniform administrative rules governing the maintenance, transfer and release of confidential information between public and private agencies that provide services to children and their families in order to:

1. Facilitate access to health, mental health, social and related services that are made available through state and federal funds for children and families;

2. Remove unnecessary and cumbersome impediments to the delivery of such services; and

3. Better provide for the expeditious, coordinated and cooperative delivery of services by establishing a uniform system of rules, procedures and forms for the maintenance, transfer and release of confidential information to be used by state, county and private agencies, boards of education, and technology center districts, pursuant to the provisions of this act.

B. For the purpose of this act, "confidential information" means any information regarding a child receiving services supported in whole or in part by state or federal funds, a family member of such child, or other persons residing in the home of such child, and which is required by state or federal law or regulation to be maintained in a confidential manner.

C. Nothing in this act shall be construed to authorize the release of confidential information except pursuant to an informed consent as provided in Section 620.4 of this title, a court order, or as otherwise provided by law. **(10-620.1)**

Commission on Children and Youth may have authority to have access to education records to monitor school districts regarding provision of special education services for children with disabilities when it is done pursuant to promulgated rules and interagency agreements. *July 21, 1999 (AG Op. No. 99-39)*

Section 900. Task Force Appointed by Oklahoma Commission on Children and Youth - Duties and Responsibilities.

A. The Oklahoma Commission on Children and Youth shall appoint a task force composed of the directors, or their designees, of the agencies listed in Section 3 of this act and, as appropriate, representatives of other public and private agencies that provide services to children and their families. The task force shall:

1. On or before November 1, 1990, establish guidelines for the development of uniform administrative rules, procedures and forms related to the maintenance, transfer and release of confidential information required pursuant to the provisions of this act;

2. On or before January 1, 1991, revise the proposed rules, procedures and forms prepared by the agencies for uniformity and compliance with the guidelines established by the task force. The task force shall make recommendations to the agencies for modifications to the proposed rules, procedures and forms as necessary to ensure uniformity and compliance with the established guidelines;

3. On or before April 1, 1991, develop a manual which clearly describes applicable state and federal laws, rules, procedures and forms for the maintenance, transfer and release of confidential information. Said manual shall be published by the Oklahoma Commission on Children and Youth and each agency providing services to children and their families shall be responsible for necessary copying and distribution, to ensure that employees involved in the delivery of services to children and their families are provided copies of the manual and are trained regarding the content and application of the information contained in the manual; and

4. Beginning on April 1, 1991, meet not less than annually and more often as necessary, as determined by the Oklahoma Commission on Children and Youth, for the purpose of reviewing proposed or necessary amendments to the rules, procedures or forms adopted pursuant to this act in order to ensure the continuing consistency and uniformity of said rules, procedures and forms and to provide for necessary revisions of the manual.

B. Each agency listed in Section 3 of this act shall provide information and staff assistance as necessary to prepare the rules, procedures, forms and manual required by this act.

C. Beginning on April 1, 1991, each agency listed in Section 3 of this act shall forward to the Oklahoma Commission on Children and Youth copies of proposed amendments to the rules, procedures and forms adopted pursuant to this act. **(10-620.2)**

Section 901. Agencies to Promulgate Rules and Adopt Procedures.

A. Prior to April 1, 1991, the following agencies shall promulgate uniform rules and adopt uniform procedures and forms for the maintenance, transfer and release of confidential information:

1. Department of Human Services;

2. Department of Mental Health and Substance Abuse Services;

3. State Department of Health;

4. State Department of Education;

5. Oklahoma Department of Career and Technology Education;

6. Oklahoma Commission on Children and Youth;

7. J.D. McCarty Center for Children with Developmental Disabilities;

8. Department of Corrections; and

9. Beginning July 1, 1998, the Office of Juvenile Affairs.

B. Private agencies receiving public funds pursuant to a grant or contract with a state agency listed in subsection A of this section and providing institutional, community residential or community-based services, as defined by Section 1101 of this title, to children and families, shall comply with the rules regarding the maintenance, transfer and release of confidential information adopted by the governing board of the state agency or agencies from which they receive funds.

C. The provisions of Sections 620.1 through 620.6 of this title shall not apply to court records of juvenile cases maintained by the district courts. The supervising judge of a statutorily-constituted juvenile bureau may establish court rules for the transfer and release of other confidential information maintained by the juvenile bureau which substantially conform with the rules, forms and procedures promulgated and adopted by state agencies pursuant to the provisions of Sections 620.1 through 620.6 of this title. **(10-620.3)**

Commission on Children and Youth may have authority to have access to education records to monitor school districts regarding provision of special education services for children with disabilities when it is done pursuant to promulgated rules and interagency agreements. *July 21, 1999 (AG Op. No. 99-39)*

Section 902. Purpose.

A. The rules promulgated and the procedures and forms adopted pursuant to this act shall include, but not be limited to:

1. Provision for maintenance, transfer and release of confidential information;

2. Compliance with all applicable state and federal laws and regulations regarding the transfer and release of confidential information;

3. If not otherwise specifically limited by law, authorization for the transfer or release of confidential information only pursuant to paragraph 5 of this subsection, a court order or an informed consent for the transfer or release of said information that has been executed by:

a. the parent or guardian of the child or other person authorized by state or federal law to execute said consent, if the subject of the confidential information is a child, or

b. the individual who is the subject of said confidential information or other person authorized by law to execute said consent on his behalf, if the subject of the confidential information is an adult;

4. Establishment of a uniform informed consent form and uniform procedures for obtaining informed consents, which shall include, but not be limited to, information which shall be provided to a person executing an informed consent prior to such execution;

5. Establishment of uniform procedures for authorizing access to confidential information for the purpose of gathering statistical information or conducting studies or research as otherwise authorized by law;

6. Establishment of uniform charges, if any, for the costs of copying and mailing records;

7. Provision for the maintenance of the confidentiality of information by persons and agencies receiving confidential information; and

8. Compliance with the provisions of the Administrative Procedures Act.

B. The uniform rules may include special rules for particular programs which are subject to federal rules. **(10-620.4)**

Section 903. Release of Confidential Information by Local Boards of Education and Technology Center School Districts.

A. The local board of education of each school district and each technology center school district shall adopt policies and procedures for the transfer and release of confidential information to the agencies listed in Section 620.3 of this title, to persons and agencies subject to the rules promulgated by said agencies pursuant to this act, and to statutorily-constituted juvenile bureaus. The policies and procedures adopted by said boards shall comply with the requirements for state agency rules listed in Section 620.4 of this title for the transfer and release of confidential information.

B. A local board of education may adopt in whole or in part the rules, procedures and forms promulgated and adopted by the State Board of Education, and each technology center school board may adopt in whole or in part the rules, procedure and forms promulgated and adopted by the State Board of Career and Technology Education. **(10-620.5)**

Section 904. Education of Gifted and Talented Children - Definitions.

1. "Gifted and talented children" means those children identified at the preschool, elementary and secondary level as having demonstrated potential abilities of high performance capability and needing differentiated or accelerated education or services. For the purpose of this definition, "demonstrated abilities of high performance capability" means those identified students who score in the top three percent (3%) on any national standardized test of intellectual ability. Said definition may also include students who excel in one or more of the following areas:

   a. creative thinking ability

   b. leadership ability

   c. visual performing arts ability, and

   d. specific academic ability.

A school district shall identify children in capability areas by means of a multicriteria evaluation. Provided, with first and second grade level children, a local school district may utilize other evaluation mechanisms such as, but not limited to, teacher referrals in lieu of standardized testing measures;

2. "Gifted child educational programs" means those special instructional programs, supportive services, unique educational materials, learning settings and other educational services which differentiate, supplement and support the regular educational program in meeting the needs of the gifted and talented child;

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

4. "Board" means the Oklahoma State Board of Education; and

5. "Act" means Sections 1210.301 through 1210.307 of this title. **(70-1210.301)**

Section 905. State Department of Education to Administer Act.

The Department of Education shall administer this act within the same section of the Department which administers the educational programs for all children other than those identified in Section 13-101 of this title. The Board shall adopt rules and regulations necessary to implement the provisions of this act. **(70-1210.302)**

Section 906. Manner of Administering Act.

A. In administering this act the Department of Education shall provide:

1. The necessary State Department of Education staff with a primary responsibility for:

a. developing educational programs for gifted and talented children,

b. assuring appropriate assessment and evaluation procedures for use by school districts of this state, and

c. enforcing compliance with the provisions of Sections 1210.301 through 1210.308 of this title by school districts;

2. The procedures for educational screening, needs analysis and prescriptive programming for gifted and talented children by Regional Education Service Center personnel and others approved by the Department;

3. In-service training for selected teachers, administrators, college personnel, parents and interested lay persons;

4. Assistance in the development of new programs and the projection of program alternatives for the eventual provision of high quality programs for all identified gifted and talented children;

5. Recommendations to the State Board of Education concerning qualifications of teachers for gifted and talented children;

6. Recommendations for degree programs and short course seminars for the preparation of teaching personnel for gifted and talented children;

7. Selected procedural safeguards for all potentially identifiable and identified gifted and talented children;

8. Auditing of gifted and talented education programs in twenty-five (25) districts selected at random each year to determine compliance with the provisions of Sections 1210.301 through 1210.308 of this title as well as program monitoring and auditing for districts with extraordinary numbers of identified students, identified students who as a group are not representative of racial and socioeconomic demographics of district student population, unusual budget reports, inappropriate implementation policies or questionable gifted child programming; and

9. Any other programs, services, supplies or facilities necessary to implement the provisions of this act.

B. State Aid to a district shall be reduced by an amount equal to twice the amount of that portion of State Aid generated by the gifted and talented weight for each student the district has identified as gifted and talented for purposes of Section 18-201 of this title and for whom, upon audit by the State Department of Education, the district has not demonstrated that the depth, breadth, and pace of the curriculum have been and continue to be in compliance with the provisions of Sections 1210.301 through 1210.308 of this title. The penalty prescribed in this section shall be enforced by reducing State Aid to the district during the next school year following the audit or completion of an appeal in the amount of the penalty. A district shall be subject to loss of State Aid pursuant to this subsection only upon verification of the district's failure to provide appropriate programs and services for identified gifted and talented students through an audit by the State Department of Education. The State Board of Education shall promulgate rules establishing a procedure by which districts against which a penalty is assessed may appeal to the Board. **(70-1210.303)**

Section 907. Utilization of Prescriptive Teaching Materials.

In administering this act, the Department of Education shall utilize, insofar as possible, prescriptive teaching materials, prescribed by appropriate testing and evaluation by Regional Prescriptive Teaching Centers. Such curriculum material shall be utilized for as many students as possible, by their regular or homeroom teachers. **(70-1210.304)**

Section 908. Combining Funds.

In implementing this act, every effort shall be made to combine funds appropriated for this purpose with funds available from all other sources, federal, state, local or private, in order to achieve maximum benefits for improving education of gifted and talented children. **(70-1210.305)**

Section 909. Criteria for Teachers.

The State Board shall adopt criteria for qualifications for teachers of gifted and talented children, as well as criteria for special enrichment program instructors who may be professionals in fields other than education. **(70-1210.306)**

Section 910. Gifted Child Educational Program.

A. It shall be the duty of each school district to provide gifted child educational programs and to serve those children, as defined in Section 1210.301 of this title, who reside in that school district. This duty may be satisfied by:

1. The district directly providing gifted child educational programs for such children;

2. The district joining in a cooperative program with another district or districts to provide gifted child educational programs for such children;

3. The district joining in a cooperative program with a private or public institution within such district; or

4. The district transferring identified gifted and talented children to other school districts which provide the appropriate gifted child educational programs, provided, no transfer shall be made without the consent of the board of education of the receiving school district. The district in which the child resides shall provide transportation for the transferred student and pay an amount of tuition equal to the proportion of the operating costs of the program to the receiving district. Transfers authorized by this section shall be made under such rules and regulations as the State Board of Education may prescribe.

B. Each district shall, regardless of the method used for accomplishing the duty set forth in subsection A of this section, notify in writing the parents of each child identified as gifted of the fact that the child has been so identified. The district shall also provide each such parent a summary of the program to be offered such child.

C. Beginning with the 1994-95 school year, and each year thereafter, each board of education shall submit a plan for gifted child educational programs as defined in Section 1210.301 of this title to the State Department of Education which shall include:

1. A written policy statement which specifies a process for selection and assessment of children for placement in gifted and talented programs that is consistent for grades one through twelve;

2. A description of curriculum for the gifted child educational program. Such description shall demonstrate that the curriculum is differentiated from the normal curriculum in pace and/or depth and that it has scope and sequence;

3. Criteria for evaluation of the gifted child educational program;

4. Evidence of participation by the local advisory committee on education for gifted and talented children in planning, child identification process and program evaluation;

5. Required competencies and duties of gifted child educational program staff;

6. Number and percentage of students identified by the district as gifted children pursuant to subparagraph g of paragraph 2 of subsection B of Section 18-201 of this title; and

7. A budget for the district gifted child educational programs.

D. At the conclusion of the 1994-95 school year and each school year thereafter, the board of education of each school district shall prepare a report which outlines the expenditures made by the district during that year for gifted child educational programs. For districts which receive six percent (6%) or more of their total State Aid money for gifted and talented programs or which received One Million Dollars ($1,000,000.00) or more in State Aid for gifted and talented programs for the preceding year, the report shall identify expenditures by major object codes and program classifications pursuant to the Oklahoma Cost Accounting System, as adopted by the State Board of Education pursuant

to Section 5-135 of this title. All other districts shall identify expenditures by major object codes. Copies of the report shall be sent to the State Department of Education by August 1 of each year.

E. The State Department of Education shall, after each school year, report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives concerning the number of children identified for the programs, number of children served by the programs, type of programs provided, type of screening procedures utilized, cost analysis of the programs and the estimated number of gifted and talented children unserved by the programs. **(70-1210.307)**

If a school district directly provides a gifted child educational program, the school district is not required to pay transportation and tuition expenses for gifted high school students who choose to enroll concurrently in college or university classes. *March 8, 1996 (AG Op. No. 95-103)*

Section 910.1. Local Advisory Committee - Gifted and Talented Programs.

A. For the purpose of meeting the duty of each school district as set forth in Section 1210.307 of Title 70 of the Oklahoma Statutes, each district board of education shall create a local advisory committee on education for gifted and talented children or expand the duties of a curriculum advisory committee for the district to assist the district on gifted and talented programs. If the district creates a local advisory committee for gifted and talented children it shall consist of at least three but no more than eleven members. The district board shall appoint all members, at least one-third (⅓) of whom shall be selected from a list of nominations submitted by associations whose purpose is advocacy for gifted and talented children. The committee shall be broadly representative of the community. The committee shall be appointed no later than September 15 of each school year for two-year terms and shall consist of parents of children identified as gifted and talented and community members who may be but are not required to be parents of students within the district. At the first meeting the committee shall elect a chair and a vice-chair. If the district utilizes the curriculum advisory committee it shall appoint at least one member who is a parent of a child identified as gifted and talented or is a knowledgeable advocate for gifted and talented children.

B. A meeting of the local advisory committee or the curriculum advisory committee shall be called by the district superintendent no later than October 1 of each year for the purpose of addressing gifted and talented program issues. The advisory committee or curriculum advisory committee may meet at other times during the year as is necessary in meeting space furnished by the district. The district shall furnish staff for the advisory committee. All meetings of the committees shall be subject to the provisions of the Oklahoma Open Meeting Act.

C. The duties of the advisory committee for gifted and talented children or the curriculum advisory committee shall be to assist in the formulation of district goals for gifted education, to assist in development of the district plan for gifted child educational programs, to assist in preparation of the district report on gifted child educational programs, and to perform other advisory duties as may be requested by the board of education. **(70-1210.308)**

Section 911. Alternative Education Programs.

A. Contingent upon the provision of appropriated funds designated for Alternative Education Academies pilot programs, the State Board of Education is authorized to award one or more competitive grants for alternative education programs to school districts, nonprofit organizations, or entities formed by interlocal cooperative agreements pursuant to Section 5-117b of this title. The grant awards shall be made to school districts located in counties with a high number of dropouts as reported by the Office of Accountability for the school year preceding the year for which the grant is being sought and a high number of referrals to the juvenile justice system or, if the grant award is to a nonprofit organization or entity formed by an interlocal cooperative agreement, the program to be funded shall serve students in school districts located in counties with a high number of dropouts and a high number of referrals to the juvenile justice system. Programs eligible for funding shall include but not be limited to programs provided:

1. Directly by a school district;

2. Pursuant to an interlocal cooperative agreement with another school district or districts or a technology center school district; or

3. Pursuant to contract with a nonprofit organization.

B. In order to be eligible for an Alternative Education Academy Grant, a program shall:

1. Allow class sizes and student/teacher ratios which are conducive to effective learning for at-risk students;

2. Incorporate appropriate structure, curriculum, and interaction and reinforcement strategies designed to provide effective instruction;

3. Include an intake and screening process to determine eligibility of students;

4. Demonstrate that teaching faculty are appropriately certified teachers;

5. Demonstrate that teaching faculty have been selected on the basis of a record of successful work with at-risk students or personal and educational factors that qualify them for work with at-risk students;

6. Reflect appropriate collaborative efforts with state agencies and local agencies serving youth;

7. Provide courses that meet the curricular standards adopted by the State Board of Education and remedial courses;

8. Offer individualized instruction;

9. State clear and measurable program goals and objectives;

10. Include counseling and social services components with the provision that providers of services are not required to be certified as school counselors;

11. Require a plan leading to graduation be developed for each child in the program;

12. Offer life skills instruction;

13. Provide opportunities for arts education to students, including Artists in Residence programs coordinated with the Oklahoma Arts Council;

14. Provide a proposed annual budget;

15. Include an evaluation component including an annual written self-evaluation; and

16. Be appropriately designed to serve middle school, junior high school and secondary school students in grades six through twelve who are most at risk of not completing a high school education for a reason other than that identified in Section 13-101 of this title.

C. Grant recipients shall have priority, if recommended by the Alternative Education Academy Grants Technical Assistance Center as provided for in subsection F of this section, and if funds are available, for annual renewal of grants by the State Board of Education in amounts and on conditions as provided in this section. If a district receives grants for an Alternative Education Academy program for three (3) consecutive school years and if the program upon evaluation by the Technical Assistance Center meets the criteria set forth in subsection B of this section, funding shall be as follows:

1. Funding for the fourth consecutive school year shall be in an amount of fifty percent (50%) of the average amount of grants awarded for the program pursuant to this section for the first three (3) consecutive school years;

2. Funding for the fifth consecutive school year shall be awarded only if the program has been state-validated and replicated by another district; if funding is awarded, it shall be in the amount of twenty-five percent (25%) of the average amount of grants awarded to the program pursuant to this section for the first three (3) consecutive school years;

3. All grants for the fourth and fifth school years as provided above shall be matched with local funds or in-kind contributions. Programs which received grants continuously for five (5) consecutive school years shall not thereafter be eligible for grants pursuant to this section.

D. School districts that receive Alternative Education Academy Grants shall not use the grant funds to supplant budgeted district expenditures for existing alternative education programs. Provided, programs that have been funded in prior years by Alternative Approaches grants pursuant to Section 1210.561 of this title may be funded through Alternative Education Academy Grants if included in the grant request and approved.

E. By September 15 of each school year, all revenue received and expended for students participating in alternative education academies created in subsection A of this section shall be reported to the State Department for Education by major object codes and by program classifications pursuant to the Oklahoma Cost Accounting System as adopted by the State Board of Education pursuant to Section 5-135 of this title.

F. Recipients of Alternative Education Academy Grants shall be subject to statutes and rules applicable to alternative education, including any exemptions from statutory or regulatory requirements authorized by statutes or rule.

G. 1. From funds appropriated for Alternative Education Academy Grants, the State Board of Education shall contract for technical assistance for operation of an Alternative Education Academy Grants Technical Assistance Center. The technical assistance provider shall be an entity located in Oklahoma that is officially recognized by the United States Department of Education to assess and facilitate dissemination of validated educational programs in Oklahoma. The technical assistance provider shall have priority, if its operations are deemed satisfactory by the State Board of Education and if funds are available, for annual renewal of the contract.

2. The duties of the technical assistance provider shall include, but shall not be limited to:

a. recommending programs to the State Board of Education for Alternative Education Academy Grants,

b. providing initial and ongoing training of personnel who will educate at-risk populations through programs funded pursuant to this section,

c. providing technical assistance to districts identified by the State Department of Education as eligible for initial grants pursuant to subsection A of this section,

d. providing technical assistance to grant recipients to enhance probability of success of grant-funded programs,

e. evaluating grant-funded programs for possible state validation as defined in Section 1210.561 of this title,

f. reporting to the State Board of Education the name and description of any program which receives state validation, and

g. providing in-depth program analysis and evaluation of grant-funded programs to the State Board of Education and the Legislature no later than November 1 following the end of the school year in which one or more grant-funded programs were implemented.

H. The State Board of Education shall promulgate rules as necessary to administer the Alternative Education Academy Grants and the process by which the grant funding shall be allocated.

I. Any school district which does not participate in the Alternative Education Academy Grants created in this section may provide an alternative education program pursuant to the provisions of this section. **(70-1210.563)**

Section 912. Alternative Education Academy Grants.

No later than August 1, 1994, the State Department of Education shall identify eight school districts eligible to receive Alternative Education Academy Grants based on the criteria set out in subsection A of Section 62 of this act. The Department shall notify the eligible districts and require the districts to submit plans for Alternative Education Academy programs no later than November 1, 1994. The initial programs shall be implemented no later than the beginning of the second semester of the 1994-95 school year. The technical assistance provider shall provide assistance

to the identified districts in assessing needs and designing programs. Two or more of the identified districts may submit one program plan if the plan will serve students in the cooperating districts. Identified districts that do not submit plans for and implement effective programs as determined by the technical assistance provider shall be penalized in an amount equal to five percent (5%) of the amount of State Aid the district received for the 1994-95 school year. The penalty shall be enforced by reducing State Aid to the district during the following school year. The State Board of Education shall promulgate rules establishing an appeal process to the Board for districts which have been assessed a penalty. **(70-1210.564)**

Section 913. Alternative Education Pay Incentives - School Counselor Certificates Not Required.

A. A certified teacher in a program funded by an Alternative Education Academy Grant shall be paid a five percent (5%) increment above the designated step for that teacher within the adopted salary schedule of the district.

B. Persons providing counseling or social services in a program funded by an Alternative Education Academy Grant shall not be required to be certified as school counselors by the State Board of Education. **(70-1210.565)**

Section 914. Implementation Requirements for State Board of Education and Local District.

A. Each year by December 1, every school district that serves middle school, junior high and secondary school students shall conduct and report to the State Department of Education a needs assessment to identify those students in grades six through twelve who are most at risk of not completing a high school education for a reason other than that identified in Section 13-101 of this title, including students under the age of nineteen (19) who reside in the district and have dropped out of school or are or have been suspended from school. Districts shall utilize data and information from juvenile justice agencies and the Office of Accountability in conducting the needs assessments. The results of the needs assessments shall be reported to the State Department of Education in a format specified by the Department.

B. By May 1, 1994, every school district as specified in subsection A of this section shall develop and submit to the State Department of Education a proposed plan approved by the district board of education, for meeting the needs of the students at risk of not completing a high school education as identified through the needs assessment required in subsection B of this section by establishing, continuing or expanding alternative education programs. The district shall include parents, students, teachers, law enforcement representatives, judicial system representatives, social service representatives, technology center school district representatives, and others deemed appropriate by the board of education in the development of the proposed plan. If the school district overlaps technology center school district or districts, the plan shall be coordinated with the board of education of each overlapped technology center school district.

C. The proposed plan shall be placed on file at the office of the school district superintendent where it shall be made available to the public on request.

D. By September 1, 1994, the State Board of Education shall prepare and submit to the Legislature and the Governor a proposed statewide plan, including a statement of needed funding, for the provision of alternative education to students in grades six through twelve who have been identified by school districts in their needs assessments as being at risk of not completing a high school education for a reason other than that identified in Section 13-101 of Title 70 of the Oklahoma Statutes. The plan should include provisions for cooperative agreements to provide services for students in alternative education programs and coordination with the State Board of Vocational and Technical Education. **(70-1210.566)**

Section 915. Alternative Education Programs - Statewide System.

A. Beginning with the first semester of the 1996-1997 school year, the State Board of Education shall implement a statewide system of alternative education programs which shall be phased-in within seven (7) years. The statewide system shall include but not be limited to Alternative Approaches grant programs, funded pursuant to Section 1210.561 of this title, and alternative academies or alternative programs implemented pursuant to this section.

B. Beginning with the first semester of the 2002-2003 school year, all school districts of this state shall provide alternative education programs that conform to the requirements of statutes and rules applicable to alternative education. A program shall:

1. Allow class sizes and student/teacher ratios which are conducive to effective learning for at-risk students;

2. Incorporate appropriate structure, curriculum, and interaction and reinforcement strategies designed to provide effective instruction;

3. Include an intake and screening process to determine eligibility of students;

4. Demonstrate that teaching faculty are appropriately licensed or certified teachers;

5. Demonstrate that teaching faculty have been selected on the basis of a record of successful work with at-risk students or personal and educational factors that qualify them for work with at-risk students;

6. Reflect appropriate collaborative efforts with state agencies and local agencies serving youth;

7. Provide courses that meet the academic curricula standards adopted by the State Board of Education and additional remedial courses;

8. Offer individualized instruction;

9. State clear and measurable program goals and objectives;

10. Include counseling and social services components with the provision that providers of services are not required to be certified as school counselors;

11. Require a plan leading to graduation be developed for each student in the program which will allow the student to participate in graduation exercises for the school district after meeting the requirements of the school district as specified in the individual graduation plan for that student; provided, for students who enter the ninth grade in or prior to the 2007-08 school year, the plan shall specifically address whether the student is required to meet the graduation requirements established in Section 11-103.6 of this title;

12. Offer life skills instruction;

13. Provide opportunities for arts education to students, including Artists in Residence programs coordinated with the Oklahoma Arts Council;

14. Provide a proposed annual budget;

15. Include an evaluation component including an annual written self-evaluation;

16. Be appropriately designed to serve middle school, junior high school and secondary school students in grades six through twelve who are most at risk of not completing a high school education for a reason other than that identified in Section 13-101 of this title; and

17. Allow students in the alternative education program, who otherwise meet all of the participation requirements, to participate in vocational programs and extracurricular activities, including but not limited to athletics, band, and clubs.

C. The alternative education program of a school district shall be operational and serving students by September 15 of each school year.

D. Each alternative education program of a school district shall receive funding based on the combined number of dropouts and students within the district who have been referred to a county juvenile service unit, a county juvenile bureau or who have been committed to the custody of the Office of Juvenile Affairs. Each alternative education program shall receive incentive funding as follows:

1. For the first year of operation, One Thousand Dollars ($1,000.00) per student;

2. For the second year of operation, Seven Hundred Fifty Dollars ($750.00) per student; and

3. For the third year of operation and each year thereafter, Seven Hundred Dollars ($700.00) per student.

Statewide alternative education funding shall not be used to supplant existing school district resources or to support programs that do not meet all the criteria for the statewide alternative education system. No alternative education program shall receive less than a total of Ten Thousand Dollars ($10,000.00) per school year.

E. By September 15 of each school year, all statewide alternative education funds received and expended for students participating in an alternative education program shall be reported to the State Department of Education by major object codes and by program classifications pursuant to the Oklahoma Cost Accounting System as adopted by the State Board of Education pursuant to Section 5-135 of this title.

F. Elementary school districts, as defined in Section 5-103 of this title, may request a waiver from the State Board of Education from the requirements of this section to implement and provide an alternative education program. Any elementary school district that has not received funding pursuant to the provisions of subsection D of this section shall be automatically granted a waiver. If a school district is granted a waiver, no statewide alternative education funding shall be allocated to the district.

G. 1. The State Board of Education shall contract for technical assistance for operation of an Alternative Education Technical Assistance Center. The technical assistance provider shall be an entity located in Oklahoma that has been officially recognized by the United States Department of Education to assess and facilitate dissemination of validated educational programs in Oklahoma. The technical assistance provider shall have priority, if its operations are deemed satisfactory by the State Board of Education and if funds are available, for annual renewal of the contract.

2. The duties of the technical assistance provider shall include, but shall not be limited to:

a. providing initial and ongoing training of personnel who will educate at-risk populations through alternative education programs,

b. providing technical assistance to school districts to enhance the probability of success of their alternative education programs,

c. evaluating state-funded alternative education programs,

d. reporting to the State Board of Education the evaluation results of state-funded alternative education programs, and

e. providing in-depth program analysis and evaluation of state-funded alternative education programs.

3. The State Board of Education shall not provide funding to an alternative education program that does not receive a recommendation for continued funding in the evaluation provided for in this subsection. Provided, any school district not receiving such a recommendation for continued funding may request a hearing before the Board with a review of the evaluation prior to the Board's final determination.

H. All alternative education programs shall be subject to statutes and rules applicable to alternative education, including any exemptions from statutory or regulatory requirements authorized by statutes or rule.

I. An alternative education program may be offered by an individual school district or may be offered jointly by school districts that have formed interlocal cooperative agreements pursuant to Section 5-117b of this title. Any school district submitting a plan for an alternative education program serving fewer than ten students shall enter into a cooperative agreement with another school district to jointly provide the program unless the program has been granted a waiver from this requirement by the State Board of Education.

J. Any materials or equipment purchased by a school district with revenue received for students participating in an alternative education program shall be used only in or directly for the alternative education program offered by

the district or any subsequent alternative education program offered to students enrolled in that district. Such materials and equipment shall be made available exclusively to alternative education students during the hours that the alternative education program is operating; provided, the material or equipment may be used for other purposes when the alternative education program is not operating.

K. Upon implementation of this subsection as provided for in subsection M of this section and contingent upon the provision of appropriated funds designated for such purpose, all school districts in the state providing alternative education programs as required in subsection B of this section shall expand the programs to include middle-school-grade students. The program shall conform to the requirements of subsection B of this section.

L. Upon implementation of this subsection as provided for in subsection M of this section and contingent upon the provision of appropriated funds designated for such purpose, each urban school district identified by the State Department of Education as having a high population of elementary grade students who are at-risk and in need of alternative education shall provide elementary level alternative education programs. The State Department of Education shall establish requirements for the programs. For purposes of this section, "urban school district" means a school district with an average daily membership of thirty thousand (30,000) or more.

M. Implementation of subsections K and L of this section shall be delayed until the current expenditure per pupil in average daily attendance in public elementary and secondary schools in unadjusted dollars for the 1998-99 school year or any school year thereafter for Oklahoma, as reported by the National Center for Education Statistics annually in the Digest of Education Statistics, reaches at least ninety percent (90%) of the regional average expenditure for that same year, and funds are provided. For purposes of this subsection, the regional average expenditure shall consist of the current expenditure per pupil in average daily attendance in public elementary and secondary schools in unadjusted dollars for each of the following states: Arkansas, Colorado, Kansas, Missouri, New Mexico, Oklahoma, and Texas, averaged together. By January 1 of each year, the State Board of Education shall report whether or not the ninety-percent expenditure level has been reached based on information reported annually in the Digest of Education Statistics by the National Center for Education Statistics. Subsections K and L of this section shall be implemented on July 1 after the first January 1 report verifies that the ninety-percent expenditure level has been reached and funds have been provided for the specific purposes of this section. **(70-1210.568)**

Section 916. Submission of Student Needs Assessment and Alternative Education Plan.

A. Each school district shall be required to update and submit on an annual basis the student needs assessment and alternative education plan outlined in Section 1210.566 of this title. The alternative education plan of each school district shall provide for specific professional development programs for the teachers teaching in or working with an alternative education program. The annual needs assessment data shall be incorporated by the State Board of Education into an annual report which shall be submitted to the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the Governor. The report shall include a listing by school district of the number of students funded and the reported number of students served in an alternative education program.

B. By July 1 of each year, each school district shall submit an expenditure report to the State Department of Education listing all of the expenditures made by the school district for the alternative education program for the previous year.

C. Upon implementation of this subsection as provided for in subsections D and E of this section, each urban school district as defined in Section 1210.568 of this title and as identified by the State Department of Education as having a high population of elementary grade students who are at-risk and in need of alternative education shall expand the annual student needs assessment and alternative education plan as required in subsection A of this section to include a needs assessment and education plan for elementary students who are at-risk and in need of alternative education.

D. Implementation of subsection C of this section shall be contingent upon the appropriation by the Legislature of state funds for the specific purpose of implementing subsection C of this section. Nothing in this section shall prevent the State Board of Education or a school district board of education from utilizing private, local, or federal funds to implement subsection C of this section.

E. Implementation of subsection C of this section shall be delayed until the current expenditure per pupil in average daily attendance in public elementary and secondary schools in unadjusted dollars for the 1998-99 school year

or any school year thereafter for Oklahoma, as reported by the National Center for Education Statistics annually in the Digest of Education Statistics, reaches at least ninety percent (90%) of the regional average expenditure for that same year, and funds are provided. For purposes of this subsection, the regional average expenditure shall consist of the current expenditure per pupil in average daily attendance in public elementary and secondary schools in unadjusted dollars for each of the following states: Arkansas, Colorado, Kansas, Missouri, New Mexico, Oklahoma, and Texas, averaged together. By January 1 of each year, the State Board of Education shall report whether or not the ninety-percent expenditure level has been reached based on information reported annually in the Digest of Education Statistics by the National Center for Education Statistics. Subsection C of this section shall be implemented on July 1 after the first January 1 report verifies that the ninety-percent expenditure level has been reached and funds have been provided for the specific purposes of the section. **(70-1210.569)**

Section 917. Abbreviated School Day and Certification Requirements for Alternative Schools.

A. Upon application of a district board of education, the State Board of Education shall authorize an abbreviated day schedule for an alternative school or alternative education program that is or will be administered by the district pursuant to the provisions of this act or for the education provided for students in a residential or treatment facility located within the district. A student assigned to the alternative school, an alternative education program or receiving educational services in a residential or treatment facility within the district who attends for a full abbreviated day shall be counted in attendance for purposes of computing average daily attendance and average daily membership for the district.

B. A district board of education may authorize enrollment on a part-time basis utilizing Internet-based courses for students who have dropped out of school or are or have been suspended from school. State Aid shall be calculated for such students based upon the percentage of the total school day in which the student is enrolled multiplied by the appropriate grade level weight pursuant to Section 18-201.1 of this title, provided such student was enrolled at any time in a public school in this state during the previous three (3) school years.

C. A district board of education shall hire only licensed or certified teachers to teach in an alternative education program or alternative education school offered by the district or to teach students who are in a residential or treatment facility.

D. No later than August 1, 1994, the State Board of Education in consultation with the Oklahoma Commission for Teacher Preparation shall promulgate rules by which a certified teacher who is qualified to teach in an alternative education program or alternative school as determined by the district board of education offering the alternative education program or alternative school or who teaches students in a residential or treatment facility may be certified to teach subjects in which the teacher does not hold certification. The rules shall provide:

1. The certification may be granted only upon application of a district board of education offering an alternative education program or alternative school pursuant to the provisions of this act or upon application of a district board of education offering a residential or treatment facility; and

2. The teacher's certification in subjects in which the teacher does not otherwise hold certification pursuant to the provisions of this section shall be valid only for purposes of teaching in the alternative education program or alternative school offered by the district board or in a residential or treatment facility located within the district making application. **(70-1210.567)**

Section 918. Alternative Approaches Grants.

A. Contingent upon the provision of appropriated funds designated for Alternative Approaches grants, the State Board of Education is authorized to award one or more such competitive grants to local education agencies, nonprofit organizations, or entities formed by interlocal cooperative agreements pursuant to Section 5-117b of this title. The grant awards shall be made to school districts located in counties with a high number of dropouts for the school year preceding the year for which the grant is being sought, and a high number of referrals to the juvenile justice system. If the grant award is to a nonprofit organization or entity formed by an interlocal cooperative agreement, the program shall serve students in school districts located in counties with a high number of dropouts and a high number of referrals to the juvenile justice system. The funds shall be awarded to programs specifically providing targeted services to high challenge children. High challenge children are those at risk of failing to complete a satisfactory education. Alternative

Approaches grants shall include high challenge grants for programs serving elementary and middle grade students and grants for middle grade level and other specified alternative education programs. Competitive grants shall be of statewide significance and shall be replicable across the state. Beginning July 1, 1993, at least twenty percent (20%) of the total dollar amount of Alternative Approaches grants shall be awarded to districts replicating state-validated programs. State validation is a process carried out by the Alternative Approaches Programs Technical Assistance Center by which grant-funded programs are evaluated for effectiveness in reaching the targeted population, local and state significance, and replicability. The Technical Assistance Center shall report to the State Department of Education the name and description of any program which receives state validation.

B. To be eligible for a High Challenge grant, a program shall meet research-based criteria set by the State Department of Education. The Alternative Approaches Technical Assistance Center shall provide the Department with research and recommendations on effective programming for high challenge children.

C. The State Board of Education is further authorized to award one competitive grant for operation of an Alternative Approaches Programs Technical Assistance Center. Said programs shall not supplant programs or activities funded by the United States Government pursuant to Chapter 1 of Title I of the Elementary and Secondary Education Act of 1965, as amended. The Alternative Approaches Technical Assistance Center grant recipient shall have priority, if its operations are deemed satisfactory by the State Board of Education and if funds are available, for annual renewal of the grant.

D. Service program grant recipients shall have priority, if recommended by the Technical Assistance Center and if funds are available, for annual renewal of grants by the State Board of Education in amounts and on conditions as provided in this section. If a district has received grants for an at risk or high challenge program for three consecutive school years and if the program upon evaluation by the Technical Assistance Center meets the criteria set forth in subsection A of this section and satisfies criteria set forth in rules adopted by the State Board of Education pursuant to subsection E of this section, funding shall be as follows:

1. Funding for the fourth consecutive school year shall be in the amount of fifty percent (50%) of the average amount of grants awarded for the program pursuant to this section for the first three (3) consecutive school years; and

2. Except as otherwise provided, funding for the fifth consecutive school year shall be awarded only if the program has been state-validated and replicated by another district; for programs that have received funding for three (3) years prior to July 1, 1992, funding will be awarded only if the program is state-validated and the grantee documents attempts to have the program replicated; if funding is awarded, it shall be in the amount of twenty-five percent (25%) of the average amount of grants awarded to the program pursuant to this section for the first three (3) consecutive school years.

All grants for the fourth and fifth school years as provided above shall be matched with local funds or in-kind contributions. Programs which received grants continuously for five (5) consecutive school years shall not thereafter be eligible for grants pursuant to this section.

E. Rules adopted by the State Board of Education shall incorporate or provide for, but not necessarily be limited to:

1. Definition of the children deemed high challenge for whom services are sought; provided the definition shall be consistent with the description of high challenge children set forth in subsection A of this section;

2. The possibility of awards for one or more of a variety of program proposals targeted for services to limited portions of the high challenge population according to such distinctions as age groupings, rural or urban settings, other cultural characteristics, or innovative service delivery strategies;

3. Requirements that service program grant recipients have clear and measurable goals and objectives; show evidence of having given reasonable consideration to coordination with other community agencies and resources, where appropriate, in the development of their proposals; and agree to comply with all requirements of the Technical Assistance Center regarding use of assessment instruments, provision of data, and provision of information necessary for program evaluation;

4. Requirements that the recipient of the Technical Assistance Center grant show command of relevant research and demonstrate capability for: Providing technical assistance, including operation of clearinghouse functions; coordinating with agencies such as the Oklahoma Arts Council; performing assessment of high challenge children; evaluating programs for effectiveness; making program cost assessments; promoting replication of successful programs; and capability for assisting program providers in attaining national validation of their programs and qualifying for federal funding;

5. Utilization of a selection committee to review applications for program and Technical Assistance Center grants and make recommendations to the State Board of Education, said selection committee to include, to the greatest extent feasible under constraints of time and funding, nationally recognized experts in the education of high challenge children ;and

6. Revocation of any high challenge or at risk grant awarded to, and ineligibility for award of any future high challenge grant pursuant to this act to, any grant recipient who has employed prior to May 24, 1991, any person who served as a volunteer assisting with the initial preparation of proposed rules for high challenge (formerly designated as at risk) grant programs or any person serving as a member of a selection committee during or within two (2) years following such person's service pursuant to paragraph 5 of this subsection. **(70-1210.561)**

Section 918.1. Funding for Counselors at Elementary Schools.

A. It is hereby the intent of the Oklahoma Legislature to provide funding to urban school districts to hire school counselors at the elementary level. Preference for funding shall be given to those urban school districts that have the highest number of elementary students at-risk and in need of alternative education. For purposes of this section, "urban school district" means a school district with an average daily membership of thirty thousand (30,000) or more.

B. Implementation of this section shall be contingent upon the appropriation by the Legislature of state funds for the specific purpose of implementing this section. Nothing in this section shall prevent the State Board of Education or a school district board of education from utilizing private, local, or federal funds to implement this section.

C. Implementation of this section shall be delayed until the current expenditure per pupil in average daily attendance in public elementary and secondary schools in unadjusted dollars for the 1998-99 school year or any school year thereafter for Oklahoma, as reported by the National Center for Education Statistics annually in the Digest of Education Statistics, reaches at least ninety percent (90%) of the regional average expenditure for that same year, and funds are provided. For purposes of this section, the regional average expenditure shall consist of the current expenditure per pupil in average daily attendance in public elementary and secondary schools in unadjusted dollars for each of the following states: Arkansas, Colorado, Kansas, Missouri, New Mexico, Oklahoma, and Texas, averaged together. By January 1 of each year, the State Board of Education shall report whether or not the ninety-percent expenditure level has been reached based on information reported annually in the Digest of Education Statistics by the National Center for Education Statistics. This section shall be implemented on July 1 after the first January 1 report verifies that the ninety-percent expenditure level has been reached and funds have been provided for the specific purposes of this section. **(70-1210.710)**

Section 919. Criteria for Alternative Education Grants.

Alternative Approaches grants for alternative education shall be limited to middle grade level alternative schools provided by a school district and to secondary grade level programs provided pursuant to a contract with a nonprofit organization. Notwithstanding self-identification of a program as an alternative education program, a program shall not receive state-funded grants to provide alternative education administered through the State Department of Education unless the program meets the criteria for Statewide Alternative Education programs as specified in Section 1210.568 of this title. **(70-1210.562)**

Section 919.1. Establishment of Rules.

A. The State Board of Education shall promulgate rules to establish the Oklahoma Advanced Placement Incentive Program, to be administered by the State Department of Education. The purpose of the program is to establish, organize, and administer a program designed to improve the course offerings available to high school students

throughout the state and to prepare students for admission to and success in a postsecondary educational environment. The Oklahoma Advanced Placement Incentive Program shall consist of the following components:

1. Financial assistance to public school teachers and schools to build and maintain successful Advanced Placement Programs; and

2. Test fee assistance to public school students who are in financial need or who take more than one advanced placement test in one (1) year.

B. On or before October 1 of each year, the State Department of Education shall issue to the Governor and members of the Senate and House of Representatives Education Committees a report on the Advanced Placement Incentive Program for the previous school year which shall include, but is not limited to:

1. The number of students taking an advanced placement exam and the number of exams taken;

2. The number of exams that receive a score of three or better;

3. The number of school sites which have received funding and the amount of awards, by type of award;

4. The number of school sites offering advanced placement courses and the number of school sites with students taking an advanced placement exam;

5. The number of students who receive assistance with the test fee and the average amount of assistance; and

6. An evaluation of the cost versus the benefits of this program. **(70-1210.701)**

Section 919.2. Purpose.

For purposes of the Oklahoma Advanced Placement Incentive Program:

1. "Advanced placement course" means a high school level preparatory course for a college advanced placement test that incorporates all topics specified by the College Board and the Educational Testing Service on its standard syllabus for a given subject area and is approved by the College Board;

2. "Preadvanced placement course" means a middle school, junior high school, or high school level course that specifically prepares students to enroll and participate in an advanced placement course;

3. "Advanced placement vertical team" means a group of middle school or junior high school and high school educators in a given discipline who work cooperatively to develop and implement a vertically aligned program aimed at helping students acquire the academic skills necessary for success in the advanced placement program;

4. "Advanced placement test" means the advanced placement test administered by the College Board and Educational Testing Service;

5. "International Baccalaureate course" means a high school level preparatory course for an International Baccalaureate examination that incorporates each topic specified by the International Baccalaureate Organization on its standard syllabus for a particular subject area;

6. "International Baccalaureate examination" means the International Baccalaureate examination administered by the International Baccalaureate Organization;

7. "College Board" means the College Board and Educational Testing Service;

8. "Department" means the State Department of Education; and

9. "Program" means the Oklahoma Advanced Placement Incentive Program. **(70-1210.702)**

Section 919.3. Awarding of Grants.

A. Contingent upon the provision of appropriated funds designated for the Oklahoma Advanced Placement Incentive Program, the State Board of Education is hereby authorized to award schools:

1. A one-time equipment and/or instructional materials grant for the purpose of providing an advanced placement course, based on criteria established by the Department. Schools which receive the grants shall:

a. offer the advanced placement courses beginning the school year following receipt of the grant,

b. provide the College Board training within one (1) year of the grant award, including at least a one-week summer institute. Teachers shall be encouraged to attend annual follow-up training, and

c. make available advanced placement examinations to all students taking the course for which a grant has been awarded;

2. Additional grants to school sites demonstrating successful implementation, as defined by the State Board of Education, of the courses for which the first grants were awarded. Schools may qualify for additional grants a minimum of four (4) years after receiving a grant award;

3. Subsidized training for advanced placement courses, preadvanced placement courses, or International Baccalaureate courses in a form, manner and time prescribed by the Department;

4. One Hundred Dollars ($100.00) for each score of three or better on an advanced placement test or four or better on an International Baccalaureate examination; provided, these funds shall be used for the purpose of Advanced Placement Program development;

5. For those students who demonstrate financial need as defined by the College Board or the International Baccalaureate Organization, a share of the advanced placement or International Baccalaureate test fee;

6. For those students who take more than one advanced placement or International Baccalaureate test in one (1) year, a share of the advanced placement test or International Baccalaureate fee in a manner prescribed by the Board; and

7. Grants for the purpose of developing an advanced placement vertical team based on criteria established by the Board.

B. Upon completion of the test, the State Department of Education shall obtain from the College Board and the International Baccalaureate Organization a list of students in Oklahoma who scored a three or higher on the advanced placement test or a four or higher on the International Baccalaureate test. Financial incentives for schools provided in this section shall be awarded at the beginning of the next school year following the school year in which the test was taken.

C. Any new expenditure authorized pursuant to Section 1210.7401 et seq. of this title shall be contingent upon the availability of funds. **(70-1210.703)**

Section 919.4. Participation in National Assessment of Educational Progress.

A. In order to assist in the nation's evaluation of the condition and progress of education, and in order to provide comparative interstate information on student performance, beginning July 1, 1997, the State Board of Education shall ensure the participation of the Oklahoma public school system in the National Assessment of Educational Progress. The results of this assessment shall be included as a separate result in annual reports on the Oklahoma State Testing Program.

B. The State Department of Education shall utilize the services of at least one qualified independent entity to conduct an evaluation of the state core curriculum standards at every grade level or, in high school for every subject,

in which a criterion-referenced test is administered, and shall report the results to the Legislature by February 1, 2000. **(70-1210.513)**

Section 919.5. (Omitted)

Section 920. Municipal Corporation Oil and Gas Leases.

Any county, township, school district, city or town that now owns or may hereafter acquire any land under control of the board of county commissioners, board of town trustees, directors of school districts, boards of education or the governing body of any city acting by and through its duly-constituted officers is hereby authorized and empowered to enter, from time to time, into valid oil and gas mining lease or leases of such land to any person, firm, association, or corporation for oil and gas development for a primary term not to exceed ten (10) years and as long thereafter as oil or gas is or can be produced, and any such oil and gas lease may provide that the lessee therein shall have the right and power to consolidate the land covered by said lease with other adjoining land for the purpose of joint development and operation of the entire consolidated premises as a unit, in which event, the lessor in such lease shall share in the royalty on oil and gas produced from said consolidated tract in the proportion that the area of the land covered by such lease bears to the total area of said consolidated tract, or for the purpose of constructing permanent improvements thereon for a term not to exceed ten (10) years. This law does not apply to agricultural purposes. **(64-405)**

Section 921. Notice - Bids.

The leases mentioned in the preceding section shall be executed only after notice by publication for two (2) weeks in a newspaper of general circulation in the county in which the land is situated and a public sale thereof to the highest and best bidder: Provided, that all leases heretofore executed by the board of county commissioners, board of town trustees, directors of school districts or boards of education covering lands under their control are hereby validated. **(64-406)**

Section 922. Insurance of Buildings.

The governing board of any county, city, town, or school district, dependent or independent, is hereby authorized to insure or cause to be insured, at the cost of such municipality, any or all of the public buildings and property or other tangible and insurable assets owned or held by such municipality, in the name of the lawful treasurer of such municipality. In event of destruction or damage to such buildings or property, or loss of other tangible and insurable assets, so insured, such treasurer shall demand and receive the monies due on account of such insurance, and when so received, he shall deposit the same as other monies belonging to such municipality and he shall credit the same to a special account on his records and it shall be used solely to rebuild, repair, or replace the property or assets so lost, damaged, or destroyed, and shall be disbursed in payment of lawful warrants drawn by such governing board for such purpose, the same as other public funds are disbursed. If not so needed, upon resolution to that effect by the governing board, the same shall be considered income from sources other than ad valorem tax and credited to the general fund of such municipality. **(19-627)**

Proceeds of insurance policy covering destruction of annexed district's building used as community center belong to annexing district for use as a community center exclusively. *AG Op. February 12, 1964*

Accident or injury insurance on athletes can be purchased with funds in Activity Account. *AG Op. September 11, 1963*

Insurance may be purchased from agent who is uncle of board member's wife. *AG Op. August 16, 1957*

Not mandatory for school boards to carry insurance on school district property. *AG Op. June 6, 1941*

Insurance company liable on policy issued to school district even though premium not paid thereon because of insufficient appropriation. *Columbia Ins. Co. v. Board of Education of Joint School District No. 1*, 91 P.2d 736 (Okla. 1939)

Premium on insurance purchased during a prior fiscal year cannot be paid out of an appropriation for the current year. *AG Op. September 7, 1938*

School district may contract for land purchase three-year insurance policy out of funds of one fiscal year. *AG Op. July 10, 1930*

Section 923. Gifts of Real Estate from Municipalities.

The municipal governing body may make gifts of any real estate belonging to the municipality to any institution in The Oklahoma State System of Higher Education or to any school district, which is located in the municipality. The municipal governing body may purchase or otherwise acquire real estate for this purpose, execute any instruments necessary for the transfer of real estate, and may give buildings or monies for the construction of buildings to institutions in the state system of higher education or any school district in this state. The governing boards of such institutions or school districts are hereby authorized to accept these gifts. **(11-22-125)**

Section 923.1. Improvement of Facilities by Municipalities.

Municipalities may support any public school system located in whole or in part within the corporate limits of the municipality or any public school system located outside and completely surrounded by the corporate limits of the municipality, including without limitation by the expenditure of municipal revenues for construction or improvement of public school facilities. In furtherance of municipal support for any public school system, as authorized by this section, the municipal governing body may take all actions necessary to effectuate such support. **(11-22-159)**

A municipal sales tax ordinance which provides that tax proceeds shall be distributed to two public school districts with school buildings or other facilities within city limits, but omits to provide for a third district that has no school buildings or other facilities within city limits, is presumptively constitutional. *January 28, 2005 (AG Op. No. 05-2)*

Money raised by a municipality for the benefit of local schools may lawfully be expended for general revenue items of day-to-day school operations, including teacher salaries. However, any municipal ordinance levying a sales tax for a special purpose must specify the purpose for which the tax will be used. *February 13, 2003 (AG Op. No. 03-6).*

Statute is constitutional. Levy of sales tax to benefit school district is valid public purpose. *Grimes v. City of Oklahoma City*, 2002 OK 47

If passed by the voters, an apportionment of tax proceeds through a trust fund which benefits all school districts located either in whole or in part within the city limits does not violate either state or federal Equal Protection clauses. *October 1, 2001 (AG Op. No. 01-40)*

Statutes which allow municipalities to support local school systems located in whole or in part within the corporate limits of the municipality are a valid exercise of legislative authority and do not violate the Oklahoma Constitution. *December 6, 2000 (AG Op. No. 00-59)*

Section 923.2. Master Lease Program – Higher Education.

The Oklahoma State Regents for Higher Education may establish a master lease program to finance the acquisition of items of personal property, or refinance or restructure outstanding equipment lease obligations as may be required by or useful to institutions and entities within The Oklahoma State System of Higher Education in order to achieve cost-saving efficiencies. The funds used by the Regents for the purposes authorized by this section shall be available for lease transactions having a minimum value of Fifty Thousand Dollars ($50,000.00) and a maximum value of Ten Million Dollars ($10,000,000.00). Such leases shall have a term that is no more than the useful life of the personal property acquired by institutions pursuant to the provisions of this section, and, in no event, more than twenty (20) years. The amount of transactions financed in a calendar year through the personal property master lease program shall not exceed Fifty Million Dollars ($50,000,000.00). **(70-3206.6)**

Section 924. Use of Public Money or Property for Religious Purposes Prohibited.

No public money or property shall ever be appropriated, applied, donated, or used, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, or system of religion, or for the use, benefit, or support of any priest, preacher, minister, or other religious teacher or dignitary, or sectarian institution as such. **(Art. 2, § 5, Okla. Const.)**

State Board of Vocational and Technical Education cannot contract with private sectarian educational institution for such institution to offer a vocational training program. *January 28, 1981 (AG Op. No. 80-196)*

School District property may be rented on occasional basis to religious organizations for religious services if fair and reasonable charge is made to cover cost of use of property. *April 8, 1975 (AG Op. No. 75-157)*

School district lunch program may include preparation of food for parochial school in District's kitchen, but cost must be apportioned on pro rata basis. *AG Op. July 1, 1971*

Special personnel and instructors and books and equipment paid for or purchased with public funds cannot be furnished students in private or parochial schools unless such students are enrolled in the public schools. *AG Op. September 16, 1965*

Transportation in a school district program approved under Title 1 of the Elementary and Secondary Education Act of 1965 cannot be used by pupils enrolled in private or parochial schools. *AG Op. September 16, 1965*

School personnel cannot be paid with public funds and furnished to parochial schools. *AG Op. September 16, 1965*

Use of public school buses for transporting parochial school pupils was forbidden under Constitution which prohibits use of pubic money or property for sectarian purposes. Transportation could not be justified on theory of public welfare. *Board of Education for ISD No. 52 v. Antone*, 384 P.2d 911 (Okla. 1963)

Churches cannot be permitted to conduct prayer meetings and religious instruction in public school buildings during school day. *AG Op. April 10, 1959*

Section 924.1. Oklahoma Religious Freedom Act.

This act may be cited as the "Oklahoma Religious Freedom Act". **(51-251)**

Section 924.2. Definitions.

In this act:

1. "Demonstrates" means the burdens of going forward with the evidence and of persuasion under the standard of clear and convincing evidence are met;

2. "Exercise of religion" means the exercise of religion under Article 1, Section 2, of the Constitution of the State of Oklahoma, the Oklahoma Religious Freedom Act, and the First Amendment to the Constitution of the United States;

3. "Fraudulent claim" means a claim that is dishonest in fact or that is made principally for a patently improper purpose, such as to harass the opposing party;

4. "Frivolous claim" means a claim which lacks merit under existing law and which cannot be supported by a good faith argument for the extension, modification, or reversal of existing law or the establishment of new law;

5. "Governmental entity" means any branch, department, agency, or instrumentality of state government, or any official or other person acting under color of state law, or any political subdivision of this state;

6. "Prevails" means to obtain prevailing party status as defined by courts construing the federal Civil Rights Attorney's Fees Awards Act of 1976, 42 U.S.C. § 1988; and

7. "Substantially burden" means to inhibit or curtail religiously motivated practice. **(51-252)**

Section 924.3. Free Exercise of Religion.

A. Except as provided in subsection B of this section, no governmental entity shall substantially burden a person's free exercise of religion even if the burden results from a rule of general applicability.

B. No governmental entity shall substantially burden a person's free exercise of religion unless it demonstrates that application of the burden to the person is:

1. Essential to further a compelling governmental interest; and

2. The least restrictive means of furthering that compelling governmental interest. **(51-253)**

School district did not coerce or compel speech in violation of First Amendment, or substantially burden public high school student's religious practice in violation of Free Exercise Clause by requiring student, as condition of receiving her diploma, to publicly apologize for making valedictory speech at graduation discussing her religious views without principal's prior approval. Student's required apology was school-sponsored speech, since it was directly related to her valedictory speech, which was also school-sponsored, and district's requirement that student apologize was reasonably related to its pedagogical concerns. Student was merely obligated to follow same rules as other speakers to have their speeches pre-screened and to realize consequences of her actions. *Corder v. Lewis Palmer School Dist. No. 38*, --- F.3d ----, 2009 WL 1492547, C.A.10 (Colo.), 2009.

Section 924.4. Regulation by Correctional Facility.

A state or local correctional facility's regulation must be considered in furtherance of a compelling state interest if the facility demonstrates that the religious activity:

1. Sought to be engaged by a prisoner is presumptively dangerous to the health or safety of that prisoner; or

2. Poses a direct threat to the health, safety, or security of other prisoners, correctional staff, or the public. **(51-254)**

Section 924.5. Interpretation of Act.

A. Nothing in this act shall be construed to:

1. Authorize any government entity to substantially burden any religious belief;

2. Authorize same sex marriages, unions, or the equivalent thereof; or

3. Affect, interpret, or in any way address those portions of Article 1, Section 2, and Article 2, Section 5, of the Constitution of the State of Oklahoma, the Oklahoma Religious Freedom Act, or the First Amendment to the Constitution of the United States that prohibit laws respecting the establishment of religion.

B. Granting governmental funds, benefits, or exemptions to the extent permissible under paragraph 3 of subsection A of this section shall not constitute a violation of this section. As used in this subsection, "granting government funds, benefits, or exemptions" shall not include the denial of government funding, benefits, or exemptions. This provision does not in and of itself require vouchers. **(51-255)**

Section 924.6. Violation of Act.

A. Any person whose exercise of religion has been substantially burdened by a governmental entity in violation of this section may assert that violation as a claim or defense in any judicial or administrative proceeding and may obtain declaratory relief or monetary damages.

B. Any person who prevails in any proceeding to enforce this act against a governmental entity may recover reasonable costs and attorney fees. **(51-256)**

Section 924.7. Frivolous or Fraudulent Claims.

Any person found by a court of competent jurisdiction to have abused the protection of this act by filing a frivolous or fraudulent claim may be assessed the court costs of the governmental entity and may be enjoined from filing further claims under this act without leave of court. **(51-257)**

Section 924.8. Nondiscriminatory Land Use Regulations.

Notwithstanding any provision of this act, a governmental entity has no less authority to adopt or apply laws and regulations in a nondiscriminatory manner concerning zoning, land use planning, traffic management, urban nuisance, or historic preservation, than the authority of the governmental entity that existed under the law prior to the passage of this act. This section does not affect the authority of a governmental entity to adopt or apply laws and regulations as that authority has been interpreted by any court. **(51-258)**

Section 925. Eminent Domain.

Any county, city, town, township, school district, or board of education, or any board or official having charge of cemeteries created and existing under the laws of this State, shall have power to condemn lands in like manner as railroad companies, for highways, rights-of-way, building sites, cemeteries, public parks and other public purposes. **(27-5)**

Section 926. School to Display Flag.

It shall be the duty of the district boards or boards of education of every public school, or proprietor of a private or parochial school in this State, to provide a suitable flag of the United States of America with staff or flagpole for every schoolhouse, and cause the flag to be displayed during every school day either from a flagstaff or pole, and in inclement weather, within the school building. **(25-153)**

Section 926.1. State Flags to be Made in the USA.

* * * *

C. All United States flags and all Oklahoma flags purchased by the state or political subdivisions shall be manufactured in the United States. **(72-63.11a)**

Section 927. Display of Oklahoma Flag on School Premises Compulsory.

It shall be the duty of the district boards or boards of education of every public school in this State, to cause the flag of the State of Oklahoma to be displayed during every school day from a flagstaff or pole, except that the flag need not be displayed in inclement weather. **(25-91.2)**

Section 927.1. Display of State Flag.

It shall be the duty of all state agencies and boards of education of this state to display the state flag with the standard design and colors as specified in Section 91 of Title 25 of the Oklahoma Statutes. **(25-91a)**

Section 927.2. Design of State Flag.

A. The banner, or flag, of the design prescribed by Senate Concurrent Resolution No. 25, Third Legislature of the State of Oklahoma shall be, and it hereby is superseded and replaced by the following design, to wit:

A sky blue field with a circular rawhide shield of an American Indian Warrior, decorated with six painted crosses on the face thereof, the lower half of the shield to be fringed with seven pendant eagle feathers and superimposed upon the face of the shield a calumet or peace pipe, crossed at right angles by an olive branch, as illustrated by the design accompanying this resolution, and underneath said shield or design in white letters shall be placed the word "Oklahoma", and the same is hereby adopted as the official flag and banner of the State of Oklahoma.

B. The standard design and colors in the state flag shall be as follows:

1. The Osage Indian warrior's circular rawhide shield of amber buckskin is center upon a field of French Blue. On the face of the shield shall be six small gold brown crosses that match the thongs lacing the edge of the shield. The vertical bar of each cross shall be twenty-five percent (25%) longer than the horizontal bar, the lower width line of which shall be placed at the fifty percent (50%) mark of the vertical bar and the top width line shall be placed at the top twenty-five percent (25%) mark of the vertical bar. The width of the horizontal bar shall be seventy-five percent (75%) of the vertical bar;

2. The edge of the lower half of the shield shall be fringed with seven pendant eagle feathers of white tipped with gold brown;

3. Across the face of the shield at right angle shall be a calumet or Indian pipe of peace, which shall have a ruby red bowl, flesh stem and be decorated with a ruby red tassel at the end. Above the calumet, lying at a right angle shall be an olive branch of Dartmouth green; and

4. The name Oklahoma in white letters shall appear under the shield on the face of the flag.

C. The standard colors used in production of the state flag shall be:

1. Pantone Matching system, Pantone, Inc., latest edition:

a. field: French Blue PMS 285c,

b. shield: amber PMS 465c,

c. feathers shading: flesh and gold brown combination PMS 486c and PMS 174c,

d. crosses and thongs: gold brown PMS 174c, and

e. calumet: stem of pipe flesh PMS 486c, body of pipe and tassel ruby red PMS 195c, and olive branch Dartmouth green PMS 554c; and

2. Colors shall be colorfast and shall not bleed one into another. **(25-91)**

Section 928. Lotteries and Raffles.

A. A lottery is any scheme for the disposal or distribution of property by chance among persons who have paid, or promised, or agreed to pay any valuable consideration for the chance of obtaining such property, or a portion of it, or for any share of or interest in such property, upon any agreement, understanding or expectation that it is to be distributed or disposed of by a lot or chance, whether called a lottery, a raffle, or a gift enterprise, or by whatever name the same may be known. "Valuable consideration" shall be construed to mean money or goods of actual pecuniary value. Provided, it shall not be a violation of the lottery or gambling laws of this state for:

1. The Oklahoma Lottery Commission to conduct a lottery pursuant to the provisions of the Oklahoma Education Lottery Act;

2. A bona fide resident merchant or merchants of a city or town, acting in conjunction with the Chamber of Commerce or Commercial Club of this state thereof, to issue free of charge numbered tickets on sales of merchandise, the corresponding stub of one or more of which tickets to be drawn or chosen by lot by a representative or representatives of the Chamber of Commerce or of the Commercial Club in the manner set forth on the tickets, the numbered stub or stubs so drawn to entitle the holder of the corresponding numbered issued ticket to a valuable prize donated by the merchant;

3. A bona fide community chest welfare fund on a military post or reservation to issue numbered tickets in conjunction with voluntary contributions to the fund, the corresponding stub or stubs of one or more of the tickets to be drawn by lot under the supervision of a military commander, the stub or stubs so drawn entitling the ticket holder to a prize of some value. Provided, however, that no person shall sell tickets or receive contributions to the fund off the military reservation; or

4. a. A qualified organization to raise funds by issuing numbered tickets in conjunction with voluntary contributions to the qualified organization, the corresponding stub or stubs of one or more of the tickets to be drawn by lot under the supervision of an official of the qualified organization, the stub or stubs so drawn entitling the ticket holder to a prize. As used in this paragraph, "qualified organization" means:

(1) a church,

(2) a public or private school accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs,

(3) a student group or organization affiliated with a public or private school qualified pursuant to division (2) of this subparagraph,

(4) a parent-teacher association or organization affiliated with a public or private school qualified pursuant to division (2) of this subparagraph,

(5) fire departments,

(6) police departments,

(7) organizations that are exempt from taxation pursuant to the provisions of subsection (c) of Section 501 of the United States Internal Revenue Code, as amended, 26 U.S.C., Section 501(c) et seq., or

(8) an "organization" as such term is defined in paragraph 20 of Section 402 of Title 3A of the Oklahoma Statutes.

b. Any raffle conducted by a qualified organization shall be conducted by members of the qualified organization without compensation to any member. The organization shall not hire or contract with any person or business association, corporation, partnership, limited partnership or limited liability company to conduct a raffle, to sell raffle tickets or to solicit contributions in connection with a raffle on behalf of the organization.

B. If the Oklahoma Education Lottery Act ceases to have the force and effect of law pursuant to Section 36 of the Oklahoma Education Lottery Act, the provisions of paragraph 3 of subsection A of this section shall cease to have the force and effect of law. **(21-1051)**

Note: This act shall become effective only if Enrolled House Bill No. 1278 of the 1st Session of the 49th Oklahoma Legislature is approved by the people of this state.

Section 928.1. Oklahoma Education Lottery Act.

A. All gross proceeds shall be the property of the Oklahoma Lottery Commission. From its gross proceeds, the Commission shall pay the operating expenses of the Commission. At least forty-five percent (45%) of gross proceeds shall be made available as prize money. However, the provisions of this subsection shall be deemed not to create any lien, entitlement, cause of action, or other private right, and any rights of holders of tickets or shares shall be determined by the Commission in setting the terms of its lottery or lotteries. For each fiscal year, net proceeds shall equal at least thirty-five percent (35%) of the gross proceeds. However, for the purpose of repaying indebtedness issued pursuant to Section 732 of this title, for the first two (2) full fiscal years and any partial first fiscal year of the Commission, net proceeds need only equal at least thirty percent (30%) of the gross proceeds. All of the net proceeds shall be transferred to the Oklahoma Education Lottery Trust Fund as provided in subsection B of this section.

B. There is hereby created in the State Treasury a fund to be designated the "Oklahoma Education Lottery Trust Fund". Except as otherwise provided in subsections H and I of this section, on or before the fifteenth day of each calendar quarter, the Commission shall transfer to the State Treasurer, for credit to the Oklahoma Education Lottery Trust Fund, the amount of all net proceeds accruing during the preceding calendar quarter. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

Upon their deposit into the State Treasury, any monies representing a deposit of net proceeds shall then become the unencumbered property of this state, and neither the Commission nor the board of trustees shall have the power to agree or undertake otherwise. The monies shall be invested by the State Treasurer in accordance with state investment practices. All earnings attributable to such investments shall likewise be the unencumbered property of the state and shall accrue to the credit of the fund.

C. Monies in the Oklahoma Education Lottery Trust Fund shall only be appropriated as follows:

1. Forty-five percent (45%) for the following:

a. kindergarten through twelfth grade public education, including but not limited to compensation and benefits for public school teachers and support employees, and

b. early childhood development programs, which shall include but not be limited to costs associated with prekindergarten and full-day kindergarten programs;

2. Forty-five percent (45%) for the following:

a. tuition grants, loans and scholarships to citizens of this state to enable such citizens to attend colleges and universities located within this state, regardless of whether such colleges and universities are owned or operated by the Oklahoma State Regents for Higher Education, or to attend institutions operated under the authority of the Oklahoma Department of Career and Technology Education; provided such tuition grants, loans and scholarships shall not be made to a citizen of this state to attend a college or university which is not accredited by the Oklahoma State Regents for Higher Education,

b. construction of educational facilities for elementary school districts, independent school districts, the Oklahoma State System of Higher Education, and career and technology education,

c. capital outlay projects for elementary school districts, independent school districts, the Oklahoma State System of Higher Education, and career and technology education,

d. technology for public elementary school district, independent school district, state higher education, and career and technology education facilities, which shall include but not be limited to costs of providing to teachers at accredited public institutions who teach levels kindergarten through twelfth grade, personnel at technology centers under the authority of the Oklahoma State Department of Career and Technology Education, and professors and instructors within the Oklahoma State System of Higher Education, the necessary training in the use and application of computers and advanced electronic instructional technology to implement interactive learning environments in the classroom and to access the state-wide distance learning network and costs associated with repairing and maintaining advanced electronic instructional technology,

e. endowed chairs for professors at institutions of higher education operated by the Oklahoma State System of Higher Education, and

f. programs and personnel of the Oklahoma School for the Deaf and the Oklahoma School for the Blind;

3. Five percent (5%) to the School Consolidation and Assistance Fund. When the total amount in the School Consolidation and Assistance Fund from all sources equals Five Million Dollars ($5,000,000.00), all monies appropriated pursuant to this paragraph which would otherwise be deposited in the School Consolidation and Assistance Fund in excess of Five Million Dollars ($5,000,000.00) shall be allocated by the State Department of Education to public schools based on the audited end-of-year average daily membership in grades 8 through 12 during the preceding school year for the purpose of purchasing technology equipment in order to conduct on-line testing as required by the Achieving Classroom Excellence Act of 2005. If at any time the total amount in the School Consolidation and Assistance Fund drops below Five Million Dollars ($5,000,000.00), the monies appropriated pursuant to this paragraph shall be deposited in the School Consolidation and Assistance Fund until the Fund again reaches Five Million Dollars ($5,000,000; and

4. Five percent (5%) to the Teachers' Retirement System Dedicated Revenue Revolving Fund.

D. The Legislature shall appropriate funds from the Oklahoma Education Lottery Trust Fund only for the purposes specified in subsection C of this section. Even when funds from the trust fund are used for these purposes, the Legislature shall not use funds from the trust fund to supplant or replace other state funds supporting common education, higher education, or career and technology education.

E. In order to ensure that the funds from the trust fund are used to enhance and not supplant funding for education, the State Board of Equalization shall examine and investigate appropriations from the trust fund each year. At the meeting of the State Board of Equalization held within five (5) days after the monthly apportionment in February of each year, the State Board of Equalization shall issue a finding and report which shall state whether appropriations from the trust fund were used to enhance or supplant education funding. If the State Board of Equalization finds that education funding was supplanted by funds from the trust fund, the Board shall specify the amount by which education funding was supplanted. In this event, the Legislature shall not make any appropriations for the ensuing fiscal year until an appropriation in that amount is made to replenish the trust fund.

F. Except as otherwise provided by this subsection, no deficiency in the Oklahoma Education Lottery Trust Fund shall be replenished by reducing any nonlottery funds, including specifically but without limitation, the General Revenue Fund, the Constitutional Reserve Fund or the Education Reform Revolving Fund of the State Department of Education. No program or project started specifically from lottery proceeds shall be continued from the General Revenue Fund, the Constitutional Reserve Fund or the Education Reform Revolving Fund of the State Department of Education. Such programs must be adjusted or discontinued according to available lottery proceeds unless the Legislature by general law establishes eligibility requirements and appropriates specific funds therefor. No surplus in the Oklahoma Education Lottery Trust Fund shall be reduced or transferred to correct any nonlottery deficiencies in sums available for general appropriations. The provisions of this subsection shall not apply to bonds or other obligations issued pursuant to or to the repayment of bonds or other obligations issued pursuant to the Oklahoma Higher Education Promise of Excellence Act of 2005.

G. There is hereby created in the State Treasury a revolving fund to be designated the "Oklahoma Education Lottery Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Commission. The Commission shall make payments of net proceeds from the fund to the Oklahoma Education Lottery Trust Fund on or before the fifteenth day of each calendar quarter as provided in subsection B of this section. All monies accruing to the credit of the Oklahoma Education Lottery Revolving Fund are hereby appropriated and may be budgeted and expended for the payment of net proceeds, prizes, commissions to retailers, administrative expenses and all other expenses arising out of the operation of the education lottery, subject to the limitations provided in the Oklahoma Education Lottery Act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

The monies in the fund shall be invested by the State Treasurer in accordance with state investment practices. All earnings attributable to such investments shall likewise accrue to the credit of the fund.

H. When appropriations from the Oklahoma Education Lottery Trust Fund are made to common education pursuant to the provisions of paragraph 1 of subsection C of this section, the appropriations shall be made available on a monthly basis. In addition to the provisions of subsection B of this section, the following process shall be used to insure that the appropriations are made available to common education in a timely manner:

1. Beginning in July of the fiscal year in which appropriations are made to common education from the Oklahoma Education Lottery Trust Fund, the Commission, on or before the ninth day of each month, shall transfer to the State Treasurer, for credit to the Oklahoma Education Lottery Trust Fund, the amount of net proceeds accruing during the preceding month equal to the amount of total monthly collections due to common education as required by paragraph 1 of subsection C of this section;

2. The Director of the Office of State Finance shall allocate the transfers provided for in paragraph 1 of this subsection to the State Department of Education on a monthly basis, not to exceed one-twelfth (1/12) of the annual apportionment for the fiscal year; and

3. The total amount of transfers to the Oklahoma Education Lottery Trust Fund of net lottery proceeds made pursuant to this subsection shall not exceed the total appropriations made to common education from the Oklahoma Education Lottery Trust Fund for the specific fiscal year.

I. When appropriations from the Oklahoma Education Lottery Trust Fund are made to The Oklahoma State System of Higher Education, the appropriations shall be made available to the System on a monthly basis. In addition to the provisions of subsection B of this section, the following process shall be used to insure that the appropriations are made available to The Oklahoma State System of Higher Education in a timely manner:

1. Beginning in July of the fiscal year in which appropriations are made to The Oklahoma State System of Higher Education from the Oklahoma Education Lottery Trust Fund, the Commission, on or before the ninth day of each month, shall transfer to the State Treasurer, for credit to the Oklahoma Education Lottery Trust Fund, the amount of net proceeds accruing during the preceding month equal to the amount of total monthly collections due to the Oklahoma State Regents for Higher Education as required by paragraph 2 of subsection C of this section;

2. The Director of the Office of State Finance shall allocate the transfers provided for in paragraph 1 of this subsection to the Oklahoma State Regents for Higher Education on a monthly basis, not to exceed one-twelfth (1/12) of the annual apportionment for the fiscal year; and

3. The total amount of transfers to the Oklahoma Education Lottery Trust Fund of net lottery proceeds made pursuant to this subsection shall not exceed the total appropriations made to The Oklahoma State System for Higher Education from the Oklahoma Education Lottery Trust Fund for the specific fiscal year. **(3A-713)**

Section 929. Noncompliance with Environmental Standards by Political Subdivisions.

Political subdivisions may, when compliance with environmental standards would create excessive debt, enter into compliance schedules with the Department of Environmental Quality to prioritize compliance based on their greatest environmental or other public health and safety needs. Excessive debt is indicated when the work needed for compliance would require a capital cost or user charge significantly beyond the per-household cost for similar sized communities within the state. Penalties shall not be assessed if a political subdivision complies with the schedule authorized by the Department. **(27A-2-3-507)**

Section 930. Emergency Protections and Plans.

School authorities of the State of Oklahoma, its political subdivisions, and its school districts are authorized to plan, design, and construct new school buildings and make additions to existing school buildings that afford protection for the anticipated school body, faculty, and visitors against tornadoes and severe weather. Each school, administration building and institution of higher learning shall have written plans and procedures in place for protecting students, faculty, administrators and visitors from natural and man-made disasters and emergencies. Plans shall be reviewed and updated annually as appropriate by each school, administration building and institution of higher learning, and placed on file at each school district and each local emergency management organization within the district. Each school district and institution of higher learning shall make annual reports to the local school board or Board of Regents detailing the status of emergency preparedness and identified safety needs for each school or institution. **(63-681)**

Section 930.1. Providing Tornado or Severe Weather Protection.

Each state institution, agency, board, and department, each political subdivision of the state, and each school district of the state is authorized to participate in such federal assistance programs as may be available or may become available to assist in providing tornado and severe weather protection. **(63-682)**

Section 931. Schools - Use of Facilities.

The Legislature of the State of Oklahoma recognizes that the boards of regents of all institutions of higher learning in the State of Oklahoma and the boards of education of all the school districts in Oklahoma have the present constitutional power to issue rules, regulations and directives as regards who will, or will not, and under what format and conditions, be allowed to make use of the facilities under their constitutional or statutory jurisdiction. **(21-1326)**

Section 932. Permits for Construction or Alteration of Building.

A. No person, firm, corporation, partnership, organization, city, town, school district, county or other subdivision of government shall commence the construction or major alteration of any buildings or structures to be used

as schools, hospitals, churches, asylums, theaters, meeting halls, hotels, motels, apartment houses, rooming houses, rest homes, nursing homes, day nurseries, convalescent homes, orphanages, auditoriums, assisted living facilities, dormitories, factories, stadiums, or warehouses, including all defined occupancies within these groups, or install original equipment for the operation or maintenance thereof without obtaining a permit. Said permit, for which a charge may be made in conformity with the local ordinance, except as limited herein as to governmental agencies, shall be obtained from the city, town or county in whose jurisdiction the construction or alteration is planned.

B. All such construction or alteration as planned shall conform to the applicable provisions of the BOCA National Building Code, as last revised, the Southern Standard Building Code Congress International (SBCCI), the Uniform Building Code (ICBO), or the International Billing Code, except that in the event any city, town or county having jurisdiction to issue such permit has adopted by ordinance one of the other building codes designated in Section 324.8 of this title, then such construction or alteration shall conform to such other code so adopted.

C. Application for such building permit shall he made to, and such building permit shall be issued by, any city, town or county in whose jurisdiction the construction or alteration is planned. The city, town or county may require the submission of plans and specifications covering the proposed construction or alteration and may refuse to issue such permit unless the work so planned is in accordance with the applicable provisions of the city, town or county's building code. In all geographical areas wherein no such permit is required by local authorities such permit must be obtained from the State Fire Marshal, who may require the submission of plans and specifications covering the proposed construction or alteration, and he shall refuse to issue such permit unless the work so planned is in accordance with the applicable provisions of said BOCA National Building Code, as last revised, the Southern Standard Building Code Congress International (SBCCI), the Uniform Building Code (ICBO), or the International Building Code; provided that the foregoing provisions of this sentence shall not apply to locations in any geographical area that are owned or operated by a state beneficiary public trust or have been purchased or leased from a state beneficiary public trust..

D. Nothing in this act shall be construed as repealing any ordinance of any city, town or county requiring the submission to the local authorities of plans and specifications and the obtaining of permits, but the power or authority of any such city, town or county to levy or assess any charge for such permit or to make and enforce requirements prerequisite to the issuance of such permit, other than requiring compliance with such building code, shall, as to governmental agencies, be limited as hereinafter set forth.

E. No city, town or county requested to issue any such permit to any city, town, school district, county or other subdivision of government shall charge, assess or collect any fee or other charge for such permit except the regular and customary inspection fees fixed by ordinance for inspection of the work to be done under such permit, and no other charge, fee or other conditions of any kind under the authority of this title shall be made a condition of or prerequisite to the obtaining of such permit by any such governmental agency.

F. No bids may be let for the construction or major alteration of any correctional facility as defined by Section 317 of this title until plans and specifications for such construction or alteration have been submitted to the State Fire Marshal for approval The State Fire Marshal shall approve said plans and specifications if the work so planned conforms with the applicable provisions of the BOCA National Building Code, as last revised, the Southern Standard Building Code Congress International (SBCCI), the Uniform Building Code (ICBO), or the International Building Code.

G. 1. Notwithstanding anything to the contrary in the International Fire Code and/or International Building Code, all facilities to be licensed as assisted living facilities, or additions to existing assisted living facilities, constructed after November 1, 2008, shall be constructed with the guidelines of the I-II building code if at any time in their operation they house residents who are not capable of responding to emergency situations without physical assistance from staff of the facility or are not capable of self preservation.

2. Assisted living facilities licensed prior to the effective date of this act may house residents who are not capable of responding to emergency situations without physical assistance from the staff or are not capable of self preservation under the following conditions: As part of the annual licensure renewal process, the facility shall disclose if any residents who reside in the facility are not capable of responding to emergency situations without physical assistance from staff or are not capable of self preservation, and the facility shall be required to install fire sprinkler protection and an alarm system within the facility in accordance with the building guidelines set forth in the building code for I-II facilities.

3. For purposes of this subsection:

a. the term "assisted living center" shall include an assisted living center licensed as such by the State Department of Health and the assisted living center component of a continuum care facility licensed by the State Department of Health, and

b. the terms "International Fire Code" and "International Building Code" shall be deemed to include:

(1) any and all appendices, commentary, amendments and supplements to, and replacements or restatements of the Codes, and

(2) any and all other laws, ordinances, regulations, codes or standards pertaining to assisted living center construction, occupancy and maintenance for the protection of lives and property from fire. **(74-324.11)**

There does not appear to be an applicable Oklahoma law which would require school districts to comply with state building codes with regard to their "existing school buildings". Thus, a school district need only comply with local, state and national building codes when such school district is embarking on new construction or an alteration to an existing structure. *May 22, 1990 (AG Inf. Op. No. 90-589)*

Existing building of school district does not need to comply with Sate or local city building codes. *March 16, 1984 (AG Op. No. 83-292)*

City can require school district to pay water and sewage connection fee as prerequisite for acquiring building permit, if fee is not in nature of a tax. *AG Op. August 28, 1972*

Section 932.1 Construction Management - Defined.

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4. "Construction management" means a project delivery method based on an agreement whereby the owner acquires from a construction entity a series of services that include, but are not necessarily limited to, design review, scheduling, cost control, value engineering, constructability evaluation, preparation and coordination of bid packages, and construction administration; "construction management" includes:

a. "agency construction management" whereby the construction entity provides services to the owner without taking on financial risks for the execution of the actual construction; and

b. "at-risk construction management" whereby the construction entity, after providing agency services during the pre-construction period, takes on the financial obligation to carry out construction under a specified cost agreement; * * *

5. "Consultant" means an individual or legal entity possessing the qualifications to provide licensed architectural, registered engineering, or registered land surveying services or possessing specialized credentials and qualifications as may be needed to plan or design for any construction or public work improvement project;

* * * * *

13. "Public improvement" means any beneficial or valuable change or addition, betterment, enhancement or amelioration of or upon any real property, or interest therein, belonging to a public agency, intended to enhance its value, beauty or utility or to adapt it to new or further purposes. The term does not include the direct purchase of materials, provided that the materials are not purchased in increments for an amount of less than Twenty-five Thousand Dollars ($25,000.00) and used for the purposes of completing a single project, equipment or supplies by a public agency, or any personal property as defined in paragraphs 1 and 4 of subsection B of Section 430.1 of Title 62 of the Oklahoma Statutes;
(61-202)

* * * * *

A school district is not a construction entity contemplated by the statute to serve as a construction manager, and thus a school district may not use in-house personnel to act as the school district's construction manager. *(AG Op. No. 2010-13)*

Section 932.1a. Design-Build and At-Risk.

A. The design-build and construction management project delivery methods shall not be used without the written approval of the Director of Central Services, or the Director's designee, when those projects are constructed for a state agency or by an act of the Legislature specifying design-build or at-risk construction management for a project. In all instances where the design-build project or at-risk construction management delivery method is authorized, construction administration shall be performed by the State Construction Administrator, the Administrator's designee or designees, or otherwise by contract or contract provision approved by the Director of Central Services for construction administration by another party.

B. Municipalities, counties, public trusts, or any other political subdivision in this state shall not be required to get approval of any other state agency in order to use design-build construction management or at-risk construction management as a construction management delivery method. However, municipalities, counties, public trusts, and any other political subdivision shall be subject to all other provisions of the Public Building Construction and Planning Act.

C. The design-build and construction management project delivery methods shall not be used for any project unless the project meets the criteria established by the administrative rules promulgated as required by this act. Such methods shall not be used unless there is a need for compressed construction time as required to respond to a natural disaster or other emergency situation affecting public health and safety, or all of the following criteria for designation are met:

1. The project benefits the public;

2. There is a need for cost control; and

3. The need exists for specialized or complex construction methods due to the unique nature of the project.

D. The use of design-build and construction management project delivery methods shall not interfere or inhibit the opportunity for subcontractors to openly and freely compete for subcontracts pursuant to the Public Competitive Bidding Act of 1974.

E. The provisions of subsections A and B of this section shall not apply to projects by contract pursuant to an interagency agreement under Section 581 of Title 74 of the Oklahoma Statutes or to projects a state agency performs solely with the staff of the agency.

F. The State Construction Administrator shall file an annual report to the legislature summarizing cost information for each construction management project completed the preceding year.

G. The Department of Central Services shall, pursuant to the Administrative Procedures Act, promulgate rules to effect procedures, processes and design-build/construction management fee guidelines necessary to the fulfillment of its responsibilities under this section.

H. As used in the Public Building Construction and Planning Act, public trusts shall not include state beneficiary public trusts. **(61-202.1)**

Section 932.2. Construction Management.

A. Any political subdivision or board of education of a school district may use construction management as a project delivery method for the building, altering, repairing, improving, maintaining or demolishing any structure or appurtenance thereto, or any other improvement to real property owned by that political subdivision or school district. For purposes of this section "construction management" shall be defined as set forth in Section 202 of this title and shall include both agency construction management and at-risk construction management.

B. A political subdivision or school district shall select a construction manager based on the professional qualifications and technical experience of the construction manager. Selection criteria shall include the experience of the candidate, past performance, and certification of the company or individuals within the company of their knowledge

of recognized standards of construction, construction management and project management. Only firms recognized as qualified construction managers by the Construction and Properties Division of the Department of Central Services pursuant to Section 62 of this title, may be considered for selection as a construction manager by a political subdivision or school district.

C. The construction management project delivery method may only be used for public construction contracts when the construction project meets the criteria establish by Section 202.1 of this title, except that a political subdivision or school district shall not be required to obtain permission from the Director of Central Services.

D. When bids for a public construction project have been received from general contractors pursuant to the Public Competitive Bidding Act of 1974 and the lowest responsible bid is within the awarding agency's available funding, the awarding agency shall not reject all bids and award the project to a construction manager.

E. Construction management contracts, for both agency construction management and at-risk construction management, entered into by a political subdivision or school district pursuant to this section shall not be considered a public construction contract pursuant to Section 102 of Title 61 of the Oklahoma Statutes and shall not be subject to competitive bidding requirements as set forth in the Public Competitive Bidding Act of 1974.

F. All construction contracts or subcontracts for work to be performed for any political subdivision or school district pursuant to a construction management project delivery method shall be awarded in accordance with the provisions of the Public Competitive Bidding Act of 1974. If a construction manager at-risk wishes to self-perform portions of the construction work to be performed, the construction manager at-risk may self-perform portions of the work provided the construction manager at-risk competitively bids the work under the same terms and conditions as the other bidders and the construction manager at-risk is the lowest responsible bidder for the construction subcontract. No work shall commence until the school district executes a written contract and the contractor and subcontractors submit bonds and proofs of insurance as required by the appropriate contract. **(61-220)**

> A school district is not a construction entity contemplated by the statute to serve as a construction manager, and thus a school district may not use in-house personnel to act as the school district's construction manager. *(AG Op. No. 2010-13)*

Section 933. The State Architectural Act - Definitions.

As used in the State Architectural and Registered Interior Designers Act:

1. "Architect" means any person who is licensed and engages in the practice of architecture as hereinafter defined;

2. "Practice of architecture" means rendering or offering to render certain services, in connection with the design and construction, enlargement or alteration of a building or a group of buildings and the space surrounding such buildings, including buildings which have as their principal purpose human occupancy or habitation; the services referred to include planning, providing preliminary studies, designs, drawings, specifications and other technical submissions, the administration of construction contracts, and the coordination of any elements of technical submissions prepared by others including, as appropriate and without limitation, consulting engineers and landscape architects; provided, that the practice of architecture shall include such other professional services as may be necessary for the rendering of or offering to render architectural services;

3. "Registration or license" means a certificate of registration or license issued by the Board. The definition of "license" shall apply to those persons licensed under a practice act. The definition of "registration" shall apply to those persons registered under a title act;

4. "Building" means a structure consisting of a foundation, walls, all floors and roof, with or without other parts;

5. "Board" means the Board of Governors of the Licensed Architects, Landscape Architects and Registered Interior Designers of Oklahoma;

6. "Certificate of authority" means the authorization granted by the Board for persons to practice or offer to practice architecture or landscape architecture through a partnership, firm, association, corporation, limited liability company or limited liability partnership;

7. "Certificate of title" means the authorization granted by the Board for a partnership, firm, association, corporation, limited liability company or limited liability partnership to use the title "registered interior designer" or any modification or derivation of these terms;

8. "Technical submissions" means designs, drawings, specifications, studies and other technical reports prepared in the course of practicing architecture or landscape architecture;

9. "Responsible control" means the amount of control and detailed knowledge of the content of technical submissions during their preparation as is ordinarily exercised by licensed architects or landscape architects applying the required professional standard of care;

10. "Landscape architect" means a person licensed to practice landscape architecture as provided in the State Architectural and Registered Interior Designers Act;

11. "Landscape architecture" means the performance of professional services defined as teaching, consultations, investigations, reconnaissance, research, planning, design, preparation of construction drawings and specifications, and construction observation in connection with the planning and arranging of land and the elements thereon for public and private use and enjoyment, including the design and layout of roadways, service areas, parking areas, walkways, steps, ramps, pools, the location and siting of improvements including buildings and other structures, and the grading of the land, surface and subsoil drainage, erosion control, planting, reforestation, and the preservation of the natural landscape, in accordance with accepted professional standards, and to the extent that the dominant purpose of such services or creative works is the preservation, conservation, enhancement, or determination of proper land uses, natural land features, ground cover and plantings, or naturalistic and aesthetic values.

The practice of landscape architecture shall include the location and arrangement of tangible objects and features as are incidental and necessary to the purpose outlined for landscape architecture. The practice of landscape architecture shall not include the design of structures or facilities with separate and self-contained purposes for habitation or industry, or the design of public streets, highways, utilities, storm and sanitary sewers and sewage treatment facilities, that are statutorily defined as the practice of engineering or architecture;

12. "Code" means the nationally recognized building code adopted by the local, municipal, or county jurisdiction in which a building is located. Where no building code has been adopted by the local, municipal or county jurisdiction, all buildings shall meet the requirements of the state building code as adopted by the Office of the State Fire Marshal;

13. "Applicable building official" means the official responsible for the application of the adopted building code as implemented by the local, municipal or county jurisdiction in which a building is located. Where no building code has been adopted by the local, municipal or county jurisdiction, the applicable building official shall be defined as the State Fire Marshal; and

14. "Registered interior designer" means a person recognized by this state who is registered, qualified by education, experience and examination and meeting all the requirements set forth in the State Architectural and Registered Interior Designers Act and the Board's rules. **(59-46.3)**

Even though the original plan or design of a building may have been exempt from the requirement to use a licensed architect under [Title 59] Section 46.21b(D) or a similar provision, the intended use of each subsequent renovation or alteration will determine if a new exemption could apply. *July 31, 2007 (AG Op. No. 07-19)*

A person not licensed as an architect under the Act can plan, design and prepare plans for the addition, renovation or alteration of a building although the intended use is not exempt from the provisions of the Act, as long as the building official appointed by the local, municipal, or county jurisdiction, or the State Fire Marshal when there is no local building code, determines the planned addition, renovation or alteration will not affect the primary structural, mechanical or electrical systems, life-safety systems or exit passageways. *July 31, 2007 (AG Op. No. 07-19)*

Absent a statutory provision to the contrary, all government entities are required to abide by the provisions of the State Architectural Act, and utilize a licensed architect and licensed landscape architect when required under the Act. *October 10, 2005 (AG Op. No. 05-34)*

Licensed architect is only individual who can contract to provide architectural services, and licensed landscape architect is only individual who can contract to provide landscape architectural services. Architectural services can be performed by individuals or entities licensed to perform landscape architectural services or by an engineer when such services are incidental to performance of normal practice of landscape architect or engineer. Landscape

architectural services can be performed by individuals or entities licensed to perform architectural services or by an engineer if such services are incidental to the performance of the normal practice of the architect or engineer. "Incidental to" means services which are likely to ensue from and are a minor consequence of other work being performed. *May 11, 2000 (AG Op. No. 00-25)*

Section 934. State File of Consultants - Procedure for Political Subdivisions.

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I. In the selection of a construction manager or consultant, all political subdivisions of this state shall follow these procedures:

The subdivision shall select a construction manager or consultant based upon the professional qualifications and technical experience of the construction manager or consultant. The subdivision shall negotiate a contract with the highest qualified construction manager or consultant provided that a fee can be negotiated that is fair and reasonable to both parties. In the event a reasonable fee cannot be negotiated with the selected construction manager or consultant, the subdivision may negotiate with other construction manager or consultants in order of their qualifications. **(61-62)**

Section 934.1. Performance-Based Efficiency Contract.

A. For purposes of this section:

1. "Public entity" means any political subdivision of this state, or a public trust which has as a beneficiary a political subdivision of this state, or any institution of higher education which is part of The Oklahoma State System of Higher Education;

2. "Performance-based efficiency contract" means a contract for the design, development, financing, installation and service of any improvement, repair, alteration or betterment of any building or facility owned, operated or planned by a public entity; or any equipment, fixture or furnishing to be added to or used in any such building or facility; or any maintenance or operational strategy that is designed and implemented that will reduce utility consumption or lower operating costs, and may include, but is not limited to, one or more of the following:

a. utility services,

b. heating, ventilating or air conditioning system modifications or replacements and automated control systems,

c. replacement or modifications of lighting fixtures,

d. indoor air quality improvements to increase air quality that conform to the applicable state or local building code requirements when done in conjunction with other cost-saving measures,

e. any additional building infrastructure improvement, cost saving, life safety or any other improvement that provides long-term operating cost reductions and is in compliance with state and local codes, or

f. any facility operation and support programs that reduce operating cost; and

3. "Qualified provider" means a person or business experienced or trained in the design, analysis and installation of energy conservation and facility management measures. A qualified provider must employ a professional engineer registered in the State of Oklahoma.

B. In addition to any other legally permissible alternatives of entering into contracts, any public entity may enter into performance-based efficiency contracts with a qualified provider pursuant to the provisions of this section. Further, any public entity may enter into an installment contract, lease purchase agreement or other contractual obligation for the purpose of financing performance-based efficiency projects for a term not to exceed twenty (20) years or the useful life of the project. A qualified provider to whom the contract is awarded shall be required to give a sufficient bond to the public entity for its faithful performance of the contract In addition, the public entity may require performance bonds covering the annual amount of guaranteed savings over the contract term.

The contract's cost savings to the public entity must be guaranteed each year during the term of the agreement. The savings must be sufficient to offset the annual costs of the contract. The contract shall provide for reimbursement to the public entity annually for any shortfall of guaranteed savings. Savings must be measured, verified and documented during each year of the term and may be utilized to meet the annual debt service. This section shall constitute the sole authority necessary to enter into performance-based efficiency contracts, without regard to compliance with other laws which may specify additional procedural requirements for execution of contracts. **(62-318)**

> Capital cost avoidance may not be considered by the governing body of a public entity in determining whether a Performance Based Efficiency Contract should be approved. Expected savings stipulated to or by the parties are irrelevant to the validity of a performance contract. *November 19, 2009 (AG Op. No. 09-32*)

Section 935. Public Recreation.

Any city, town, school district or county may establish, provide, maintain, construct, set apart and conduct, either singly or jointly in cooperation with one or more of the other governmental units specified herein, parks, playgrounds, recreation centers, athletic fields or grounds, swimming pools, social and community centers, and other facilities and activities in public schools, parks, buildings and facilities now owned or acquired. For such purposes the governing body of the governmental unit may dedicate and set apart for use as playgrounds, recreation centers and other recreational purposes any lands or buildings, or both, owned or leased by the governmental unit and not dedicated or devoted to another public use. The governmental unit may, in such manner as may now or hereafter be authorized or provided by law for the acquisition of lands or buildings for public purposes by the governmental unit, acquire or lease lands or buildings, or both, within or beyond the corporate limits of the governmental unit for playgrounds, recreation centers and other recreational purposes. When the governing body of the governmental unit shall dedicate, set apart, acquire or lease buildings for such purposes, it may on its own initiative provide for their conduct, equipment and maintenance according to the provisions of this subarticle by making an appropriation from the general revenues of the governmental unit as for other current expenses of the governmental unit. Any governing body is hereby authorized and empowered to establish, provide, maintain, construct and conduct recreational activities on local nongovernmental properties as well as on publicly-owned facilities. **(11-33-103)**

Note: Refer to 11 O. S. § 33-101 to § 33-115 for procedures applicable to this section.

Section 935.1. Oklahoma Safe Playground Surfaces Act.

Sections 6 and 7 of this act shall be known and may be cited as the "Oklahoma Safe Playground Surfaces Act". **(27A-2-11-414)**

Section 935.2. Grants for Safe Playground Surfaces.

A. The Oklahoma Tax Commission is authorized to award matching grants, pursuant to the provisions of this act, to public schools or institutions, state parks and recreation areas for the purpose of reimbursing such entities for purchasing and installing, according to the specifications outlined in the American Standards for Testing and Materials 1292 (ASTM), playground surfacing material made from crumb rubber or other waste tire material processed by a facility located in this state.

B. Beginning July 1, 2001, when the total amount of funds accruing to the Waste Tire Recycling Indemnity Fund, created pursuant to the provisions of Section 2-11-404 of Title 27A of the Oklahoma Statutes, reaches Three Million Dollars ($3,000,000.00), an amount not exceeding One Million Dollars ($1,000,000.00) may be expended from the fund within that state fiscal year for the reimbursement through matching grants of playground resurfacing material purchased pursuant to this section.

C. For the purposes of this act:

1. The term "public school or institution" means any public educational institution or other public institution located in this state and accredited for the purpose of educating or caring for children; and

2. The term "state park or recreation area" means any public recreation area owned and operated by the State of Oklahoma that contains a playground area for public use.

D. Any public school or institution, state park or recreation area shall be eligible to receive a matching grant of up to Twenty Thousand Dollars ($20,000.00) as reimbursement or payment for purchasing and installing eligible playground surfacing material. A public school or institution may apply for any number of matching grants from the fund, but the total amount awarded shall not exceed Twenty Thousand Dollars ($20,000.00) per school or institution. The application for reimbursement or payment may be submitted to the Tax Commission at the time a contract for sale and installation of the playground surfacing material has been executed. Reimbursement or payment shall be made only for playground surfacing material produced from waste tires discarded in this state. If approved, funds shall be obligated for the applicant and a notice of funds approval shall be sent by the Tax Commission to the applicant. Actual reimbursement or payment shall not be made by the Tax Commission until a notice of installation, signed by the contractor, has been received from the applicant. Nothing herein shall prevent any eligible entity from assigning payment, which has been approved by the Tax Commission, to a contractor.

E. Grants from the fund for public schools or institutions and state parks or recreation areas shall be awarded on a first-come, first-serve basis but shall not exceed One Million Dollars ($1,000,000.00), including administrative costs as provided by subsection F of this section, in any fiscal year. Any entity applying for a matching grant that is rejected due to limited funds shall remain eligible until funds become available.

F. The Tax Commission may retain one percent (1%) of the grant monies awarded from the fund for administrative costs to implement the provisions of this act.

G. The Tax Commission is directed to promulgate rules to implement the provisions of this act. **(27A-2-11-415)**

Section 936. Virtual Internet School in Oklahoma Network (VISION) Act.

This act shall be known and may be cited as the "Virtual Internet School in Oklahoma Network (VISION) Act". **(70-1210.721)**

Section 936.1. Purpose of VISION Act.

The Oklahoma Legislature, recognizing the advancements of technology in education, hereby establishes, if funds are made available, the Virtual Internet School in Oklahoma Network (VISION) Pilot Program for the development of a virtual internet school in the state. The purpose of the Pilot Program shall be to provide verifiable information on the advantages of web-based instructional programs. The Pilot Program shall concentrate on the development of web-based instructional programs in mathematics for all grades, beginning with the third grade. The Pilot Program shall also enable development and testing of procedures and standards so that implementation of a virtual internet school network statewide will progress smoothly.

For purposes of the Pilot Program, the virtual internet school shall consist of web-based instructional programs delivered via standard internet connections at any one of four levels. The Pilot Program shall begin implementation at level one and shall phase in each successive level as the features are developed and can be supported. Level one consists of traditional online instruction featuring textual and graphic data. Level two consists of level one features along with audio and chat support. Level three consists of level one and two features along with one-way video support. Level four consists of level one, two, and three features along with two-way video conferencing support. **(70-1210.722)**

Section 936.2. Coordinating Agencies of VISION Pilot Program.

The State Department of Education shall be the coordinating agency for the Virtual Internet School in Oklahoma Network (VISION) Pilot Program. The Department shall work with the school districts participating in the Pilot Program and acquire any resources and equipment necessary for the implementation and support of the Pilot Program. All resources and equipment acquired for the Pilot Program shall comply with recommendations and meet procedures and standards established by the Virtual Internet School Pilot Program Coordinating Committee created in Section 1210.725 of this title. The Department shall not acquire any resources or equipment for the Pilot Program unless the Committee has recommended the acquisition. **(70-1210.723)**

Section 936.3. Selection of School Districts to Participate.

A. Nine public school districts shall be selected to participate in the Virtual Internet School in Oklahoma Network (VISION) Pilot Program. Each of the nine school districts shall represent different areas of the state. The Superintendent of Public Instruction, the Chancellor of Higher Education and the Cabinet Secretary for Science and Technology, upon agreement of at least two of the three shall select the school districts for participation in the Pilot Program.

B. 1. To qualify to be selected to participate in the VISION Pilot Program, school districts shall have installed or commit to install the following:

a. a minimum of a single compressed video T-1 digital circuit that is connected to a OneNet DS3 hub site,

b. a LAN/WAN connection that supports Fast Ethernet backbones or greater with 100Mbps service to the desktop,

c. desktops capable of authenticating to a server operating system that natively supports a multiple processor Kernel, server clustering, and a web browser capable of supporting server side multicast technologies with 128 bit encryption. Servers as receivers of content from VISION distribution points shall support the selected server operating system and be capable of delivering and storing fifty (50) hours of media, and

d. access servers and associated telecommunications circuits that allow remote access to the school district's LAN/WAN.

2. Preference shall be given to qualified school districts that commit to invest in any of the following:

a. are connected or will connect to one of the thirty-two OneNet DS3 upgrade sites,

b. have deployed or committed to deploy routers that have the capability of servicing multiple T-1 digital circuit interfaces and support load balancing across the additional T-1 circuits,

c. have or acquire routers that support 10BaseT, Fast Ethernet, Gigabit Ethernet, or ATM and the upcoming IP V.6 (Internet II) implementation, or

d. have or commit to install 100Mbps dedicated services to the desktops by phase 2 of the implementation of the Pilot Program with desktops that have a minimum of PII 266 MHz equivalent or greater processor speeds if supporting desktops that are non-Intel architecture based and support CODEC software/hardware which is capable of receiving and delivering video as defined under the H.323 standards and be multiconferencing enabled.

C. The Committee may choose additional school districts to participate in the Pilot Program if the Committee determines the additional school districts would enhance the Pilot Program. The Committee shall have the authority to establish rules, policies, standards and sanctions that participating school districts shall comply with while participating in the Pilot Program.

D. Selection of participating school districts shall be made within thirty (30) days after the effective date of this act. **(70-1210.724)**

Section 936.4. VISION Pilot Program Coordinating Committee.

A. There is hereby created the Virtual Internet School Pilot Program Coordinating Committee. The Committee shall consist of nine (9) members who shall be selected by the Superintendent of Public Instruction, the Chancellor of Higher Education, and the Cabinet Secretary for Science and Technology, upon agreement of at least two of the three.

B. Each public school district selected to participate in the Pilot Program shall be represented by one member on the Committee. The members shall be proficient in technology tools or applications and shall be either

administrators, teachers, curriculum specialists, or other individuals who are residents of the school district that member represents.

C. The following shall serve as ex officio, nonvoting members of the Committee:

1. The State Superintendent of Public Instruction or a designee;

2. The Executive Director of the Oklahoma Educational Television Authority or a designee;

3. The Director of the Oklahoma Department of Career and Technology Education or a designee;

4. The Chancellor of Higher Education or a designee;

5. The Secretary of Education or a designee;

6. The Secretary of Science and Technology or a designee; and

7. The Director of the Department of Rehabilitation Services or a designee.

D. Appointment of members of the Committee shall be made within thirty (30) days after the effective date of this act.

E. The State Superintendent of Public Instruction shall call the first meeting of the Committee within forty-five (45) days after the effective date of this act. The Committee shall select the Chair and the Vice Chair of the Committee from among their respective appointments at the first meeting. Subsequent meetings of the Committee shall be held at the call of the Chair or by a quorum of the members. The Committee shall meet at such times as is necessary. A quorum shall consist of a majority of the voting members of the Committee.

F. Members of the Committee shall receive no compensation for serving on the Committee, but shall receive travel reimbursement as follows:

1. State agency employees who are members of the Committee shall be reimbursed for travel expenses incurred in the performance of their duties by their respective agencies in accordance with the State Travel Reimbursement Act; and

2. All other Committee members shall be reimbursed by the State Board of Education for travel expenses incurred in performance of their duties on the Committee, in accordance with the State Travel Reimbursement Act. **(70-1210.725)**

Section 936.5. Duties and Responsibilities of Coordinating Committee.

A. The first objectives of the Committee shall be to:

1. Develop and implement a highly secure and locally controlled web-based software system for schools which utilizes an Open Database Connectivity (ODBC) compliant object-oriented database management system which is capable of delivery of internet-based video in accordance with established standards. The management system will function to create an integrated system that provides relationships between school data on accreditation, teacher certification, curriculum validation and alignment, financial reporting modules, and any further data deemed necessary. The software system will include a mechanism to deliver the integrated data in specialized content mediums, including, but not limited to text, graphics, audio, video, and multiple media integration with associated web-based content profiling capabilities. The software system shall be developed not later than August 31, 2001. Development of the software system shall be contingent upon the securing of private matching funds; and

2. Develop content, standards for distribution, and procedures for deployment onto the networks of web-based curriculum programs in mathematics for all grade levels beginning with the third grade. The web-based curriculum content for mathematics shall be developed not later than August 31, 2001.

B. The Committee shall also:

1. Establish standards and procedures for acquiring resources and equipment for the Pilot Program;

2. Make recommendations on the construction and deployment of a statewide server array with the necessary storage to support the storage and retrieval of curriculum content for a statewide virtual internet school. For purposes of this act, "server array" shall mean a centralist repository for streaming resources for the Pilot Program;

3. Make recommendations on additional hardware equipment and internet connectivity for each school district participating in the Pilot Program; and

4. Develop and implement site training for teachers and administrators on web-based instruction and management.

C. As necessary to carry out its charge, the Committee may seek technical assistance from specialists in applicable areas. The Committee may establish working groups composed of specialists and other individuals to assist the Committee in accomplishing its work.

D. The Committee shall make recommendations to the State Board of Education of persons to be employed by the Board to work on the Pilot Program project. No person shall be employed unless the Committee has made a recommendation concerning the position. **(70-1210.726)**

Section 936.6 Vision Partnerships.

A. The Virtual Internet School Pilot Program Coordinating Committee may enter into cooperative partnerships with private Oklahoma-based companies in order to:

1. Distribute and utilize the management system and web-based curriculum content developed through the VISION Pilot Program as outlined in the Virtual Internet School In Oklahoma Network (VISION) Act on a statewide basis for school districts;

2. Continue the development of the products, processes and ideas that have resulted or will result from the VISION Pilot Program and that have a potential for protection pursuant to the intellectual property laws of the United States or of this state; and

3. Assist school districts in taking advantage of education technologies that have been developed or are being developed through the VISION Pilot Program and through private companies that help school districts improve education and meet state and federal reporting requirements and also help schools increase parental involvement and parental and public access to information.

B. A partnership shall be a collaborative effort where the Committee and a company exchange information and ideas. The formation of the partnership shall not entail the commitment of or exchange of state or federal money, provided the Committee may in a separate agreement contract with a partnership company for products or services as provided for by law. In order to achieve the goals of a partnership, the Committee may seek assistance from OneNet for cost-efficient distribution services, from the Oklahoma Center for the Advancement of Science and Technology for technical expertise, or from any other state entity.

C. The Committee shall work with any partnership company to determine the market feasibility of any product, processes, or ideas that have resulted from the VISION Pilot Program or result from the collaborative effort of the partnership, including software integration engines for interfacing existing technology, and that have a potential for protection pursuant to the intellectual property laws of the United States or of this state. The Committee shall also work with any partnership company to develop a marketing plan for the commercialization of all such products, processes, or ideas.

D. Any products, processes, or ideas, including the software integration engines, developed from the collaborative effort of the partnership shall be constructed, in addition to other goals, in a manner to assist school districts and the state in complying with the guidelines of the Elementary and Secondary Education Act of 2001 (ESEA), P.L. No. 107-110, also known as the No Child Left Behind Act of 2001, and shall be in accordance with the following standards or guidelines:

1. Extensible Markup Language (XML);

2. Web services, a protocol developed by the World Wide Web Consortium;

3. Schools Interoperability Framework (SIF) version 1.5 specifications or any updated version of the specifications; and

4. The United States Department of Education Performance-Based Data Management Initiative (PBDMI).

E. In order to move as quickly as possible on the formation of partnerships, on or before August 1, 2003, the Committee shall establish criteria upon which to evaluate a company for a partnership established pursuant to this section. The criteria may include, but is not limited to the:

1. Quality or technical competency of the company and its products;

2. Financial stability of the company;

3. Reliability of the delivery and implementation schedules of the company;

4. Industry and program experience of the company and record of successful past performance with web-based projects of similar scope and complexity in Oklahoma;

5. Anticipated acceptance by user groups; and

6. Use of proven development methodology by the company, and innovative use of current technologies that lead to quality results.

F. By January 1, 2004, the Committee shall report to the State Board of Education and the Legislature the results of any distribution, collaboration, and marketing efforts resulting from the partnership formed pursuant to the section.

G. Any product, processes, or ideas that have resulted solely from the VISION Pilot Program or result from the collaborative effort of the partnership, including software integration engines for interfacing existing technology, and that have a potential for protection pursuant to the intellectual property laws of the United States or of this state shall be subject to the provisions of Section 85.60 of Title 74 of the Oklahoma Statutes.

H. Any partnership entered into by the Committee pursuant to the provisions of this section shall be formed so as to not confer upon the company any benefit in violation of Section 15 of Article X of the Oklahoma Constitution. **(70-1210.727)**

Section 937. Use of County-owned Machinery and Equipment for Improvements of School.

The board of county commissioners may provide to public schools within the county such county-owned machinery and equipment to make improvements upon school grounds. The expense of operation, including operating personnel, may be billed to the school district requesting such improvements on an actual cost basis. The expense of the materials supplied for the improvements shall be paid from school funds. **(19-359)**

Section 937.1. Transfer of Surplus Property to Public School.

A. Each state department, institution, or agency which is empowered by law to purchase supplies and equipment, and which also is authorized by law to maintain a revolving fund and make expenditures therefrom for purchase of supplies and equipment is hereby authorized to dispose of outworn, outmoded, obsolescent, or obsolete equipment solely for the purpose of acquiring suitable equipment of comparable kind and purpose, by any of the following methods or combinations of methods:

1. By exchange;

2. By trade-in to cover part of the cost of equipment to be acquired by purchase; and

3. By separate cash sale in cases where it appears that a greater amount can be recovered than could be realized by exchange or trade-in; provided that nothing in this act shall apply to the Grand River Dam Authority.

B. The entities authorized to dispose of obsolete equipment pursuant to subsection A of this section are also authorized to dispose of obsolete or surplus equipment by transfer to a public school district or to entities within The Oklahoma State System of Higher Education without compensation. **(62-120.1)**

Section 937.1a. Oklahoma Surplus Property Act.

For purposes of the Oklahoma Surplus Property Act:

1. "Authorized entity" means a political subdivision, school, group or organization eligible to acquire surplus property from a surplus property program;

2. "Surplus property" means items, commodities, materials, supplies or equipment a state agency owns and determines to be excess, obsolete, antiquated, unused or not needed;

3. "State agency" means any state board, bureau, commission, department, authority, public trust, interstate commission, the Judiciary, the Legislature, and the Office of the Governor;

4. "Department" means the Department of Central Services;

5. "Director" means the Director of the Department of Central Services;

6. "Surplus property program" means programs the Director establishes for the purchase, sale and disposal of surplus property;

7. "Sale" means methods the Director uses to dispose of surplus property; and

8. "Minimal value" or "no value" means surplus property that has less value than the costs the Department may incur to sell, trade or dispose of the surplus property. **(74-62.2)**

Section 937.1b. Surplus Property Available to School Districts.

A. The Director of the Department of Central Services shall promulgate rules for use by state agencies and the Department of Central Services to dispose of surplus property. The rules shall include standards for recordkeeping, methods for removal or disposal of surplus property, and acquisition by state agencies and authorized entities of surplus property, and for Department management of surplus property programs.

B. A state agency selling, trading, redistributing or otherwise disposing of surplus property shall comply with the rules promulgated by the Director.

C. The Department shall make surplus property available to state agencies and authorized entities, which shall include political subdivisions, school districts, and nonprofit entities of this state.

D. The provisions of this act shall not apply to institutions of higher education in this state, or the Northeast Oklahoma Public Facilities Authority.

E. Notwithstanding the provisions of this act, the Oklahoma State Bureau of Investigation may, pursuant to rules promulgated by the Oklahoma State Bureau of Investigation Commission for that purpose, donate any surplus property, as defined in Section 62.2 of this title, to any law enforcement agency of any political subdivision of the State of Oklahoma. The use of such donated equipment shall be limited to valid and authorized law enforcement efforts by the receiving agency. **(74-62.3)**

Section 937.2. County Commissioners Maintenance of Private Roads Used by Schools Buses.

In order to protect the health, safety and welfare of the children of this state, the board of county commissioners shall be authorized to enter onto private property adjoining county roads in order to perform maintenance or improvements to an existing private road when:

1. The private road is used by a school bus to turn around;

2. The available right-of-way does not provide enough space for the school bus to turn around without endangering the occupants of the school bus; and

3. The owner of the private road agrees in writing to the necessary maintenance or improvements.

The maintenance or improvements to the private road shall be limited to the area necessary for the school bus to adequately turn around. **(69-601.5)**

Section 937.3. Sale of Used Vehicles.

A. The Department of Public Safety is hereby authorized to make available for sale used vehicles and used emergency vehicle equipment to any federal, state, county or municipal agency, public school district, or any reserve deputy, reserve officer, or firefighter who furnishes their own vehicle for the performance of their duty.

B. The Department of Public Safety is hereby authorized to make available for sale at public auction any used vehicles, used emergency vehicle equipment, and any property forfeited to the Department.

C. The Department of Public Safety shall promulgate rules for the sale and auction of used vehicles, used emergency vehicle equipment, and forfeited property. **(47-2-123)**

Section 938. Lease of Tools, Machinery and Equipment From County.

A. The county commissioners shall have power:

1. To make all orders respecting the real property of the county, to sell the public grounds of the county and to purchase other grounds in lieu thereof; and for the purpose of carrying out the provisions of this section it shall be sufficient to convey all the interests of the county in those grounds when an order made for the sale and a deed is executed in the name of the county by the chair of the board of county commissioners, reciting the order, and signed by the chair and acknowledged by the county clerk for and on behalf of the county;

2. To audit the accounts of all officers having the care, management, collection or disbursement of any money belonging to the county or appropriated for its benefit;

3. To construct and repair bridges and to open, lay out and vacate highways; provided, however, that when any state institution, school or department shall own, lease or otherwise control land on both sides of any established highway, the governing board or body of the same shall have the power to vacate, alter or relocate the highway adjoining the property in the following manner:
If it should appear that it would be to the best use and interest of the institution, school or department to vacate, alter or relocate such highway, the governing board or body shall notify the board of county commissioners, in writing, of their intention to hold a public hearing and determine whether to vacate, alter or relocate the highway, setting forth the location and terminals of the road, and all data concerning the proposed right-of-way if changed or relocated, and shall give fifteen (15) days' notice of the hearing by publication in some newspaper in the county or counties in which the road is located, and the hearing shall be held at the county seat of the county in which the road is located, and if a county line road, may be heard in either county. At the hearing testimony may be taken, and any protests or suggestions shall be received as to the proposed measure, and at the conclusion thereof if the governing board or body shall find that it would be to the best use and interest of the institution, school or department, and the public generally, they may make an appropriate order either vacating, altering or relocating the highway, which order shall be final if approved by the board of county commissioners. The institution, school or department may by agreement share the cost of changing any such road. No property owner shall be denied access to a public highway by the order;

4. To recommend or sponsor an employee or prospective employee for job-related training and certification in an area that may require training or certification to comply with state or federal law as such training or certification is provided by the Department of Transportation, the Federal Highway Administration, or any other state agency, technology center school, or university;

5. Until January 1, 1983, to furnish necessary blank books, plats, blanks and stationery for the clerk of the district court, county clerk, register of deeds, county treasurer and county judge, sheriff, county surveyor and county attorney, justices of the peace, and constables, to be paid for out of the county treasury; also a fireproof vault sufficient in which to keep all the books, records, vouchers and papers pertaining to the business of the county;

6. To set off, organize and change the boundaries of townships and to designate and give names therefor; provided, that the boundaries of no township shall be changed within six (6) months next preceding a general election;

7. To lease tools, apparatus, machinery or equipment of the county to another political subdivision or a state agency. The Association of County Commissioners of Oklahoma, the Oklahoma State University Center for Local Government Technology and the Office of the State Auditor and Inspector, together, shall establish a system of uniform rates for the leasing of such tools, apparatus, machinery and equipment;

8. To jointly, with other counties, buy heavy equipment and to loan or lease such equipment across county lines;

9. To develop minimum personnel policies for the county with the approval of a majority of all county elected officers;

10. To purchase, rent, or lease-purchase uniforms, safety devices and equipment for the officers and employees of the county and provide incentive awards for safety-related job performance. However, no employee shall be recognized more than once per calendar year and the award shall not exceed the value of Two Hundred Fifty Dollars ($250.00); further, no elected official shall be eligible to receive a safety award. The county commissioners may pay for any safety training or safety devices and safety equipment out of the general county funds or any county highway funds available to the county commissioners;

11. To provide for payment of notary commissions, filing fees, and the cost of notary seals and bonds;

12. To do and perform other duties and acts that the board of county commissioners may be required by law to do and perform;

13. To make purchases at a public auction pursuant to the county purchasing procedures in subsection D of Section 1505 of this title;

14. To deposit interest income from highway funds in the general fund of the county;

15. To submit sealed bids for the purchase of equipment from this state, or any agency or political subdivision of this state;

16. To utilize county-owned equipment, labor and supplies at their disposal on property owned by the county, public schools, two-year colleges or technical branches of colleges that are members of The Oklahoma State System of Higher Education, the state and municipalities according to the provisions of Section 36-113 of Title 11 of the Oklahoma Statutes. Cooperative agreements may be general in terms of routine maintenance or specific in terms of construction and agreed to and renewed on an annual basis. Work performed pursuant to Section 36-113 of Title 11 of the Oklahoma Statutes shall comply with the provisions of this section;

17. To enter into intergovernmental cooperative agreements with the federally recognized Indian tribes within this state to address issues of construction and maintenance of streets, roads, bridges and highways exclusive of the provisions of Section 1221 of Title 74 of the Oklahoma Statutes;

18. To execute hold harmless agreements with the lessor in the manner provided by subsection B of Section 636.5 of Title 69 of the Oklahoma Statutes when leasing or lease-purchasing equipment;

19. To accept donations of right-of-way or right-of-way easements pursuant to Section 381 et seq. of Title 60 of the Oklahoma Statutes;

20. To establish by resolution the use of per diem for specific purposes in accordance with the limitations provided by Sections 500.8 and 500.9 of Title 74 of the Oklahoma Statutes;

21. To apply to the Department of Environmental Quality for a waste tire permit to bale waste tires for use in approved engineering projects;

22. To enter into the National Association of Counties (NACo) Prescription Drug Discount Program; and

23. To work with federal, state, municipal, and public school district properties in an effort to minimize cost to such entities.

B. The county commissioners of a county or, in counties where there is a county budget board, the county budget board may designate money from general county funds for the designated purpose of drug enforcement and drug abuse prevention programs within the county.

C. When any lease or lease purchase is made on behalf of the county by the board pursuant to the provisions of this section, the county shall be allowed to have trade in values for transactions involving the Oklahoma Central Purchasing Act.

D. In order to timely comply with the Oklahoma Vehicle License and Registration Act with regard to county vehicles, the board of county commissioners may, by resolution, create a petty cash account. The board of county commissioners may request a purchase order for petty cash in an amount necessary to pay the expense of license and registration fees for county motor vehicles. Any balance in the petty cash account after the license and registration fees have been paid shall be returned to the account or fund from which the funds originated. The county purchasing agent shall be the custodian of the petty cash account, and the petty cash account shall be subject to audit.
E. When the board of county commissioners approve an express trust, pursuant to Sections 176 through 180.3 of Title 60 of the Oklahoma Statutes, for the purpose of operating a county jail, the trustees of the public trust may appoint commissioned peace officers, certified by the Council on Law Enforcement Education and Training, to provide security for inmates that are required to be transported outside of the detention facility, and investigate violations of law within the detention facility. Other personnel necessary to operate the jail may be employed and trained or certified as may be required by applicable state or federal law. **(19-339)**

Note: Amended by SB 553, Sec. 9 & Sec. 10of the 2011 Reg. Sess.

Section 938.1. Oklahoma Governmental Telecommunications Network.

A. There is hereby created a wide area telecommunications network to be known and referred to as the "Oklahoma Government Telecommunications Network (OGTN)". The OGTN shall consist of the telecommunications systems and networks of educational entities and agencies of state government.

B. Notwithstanding the provisions of subsection A of this section:

l. The Oklahoma State Regents for Higher Education may continue to operate, maintain and enhance the State Regents Educational Telecommunications Network; provided, however, the Oklahoma State Regents for Higher Education shall submit all plans for the enhancement of the State Regents Educational Telecommunications Network to the Office of State Finance for review and approval within the context of the statewide telecommunications network provided for in subsection C of this section and shall participate with the Office of State Finance in joint efforts to provide services for the OGTN; and

2. The Department of Pubic Safety may continue to operate, maintain and enhance the statewide law enforcement data communications network provided for in Section 2-124 of Title 47 of the Oklahoma Statutes; provided, however, the Department of Public Safety shall submit all plans for the enhancement of the statewide law enforcement data communications network to the Office of State Finance for review and approval and shall participate with the Office of State Finance in joint efforts to provide services for the OGTN.

C. The Office of State Finance shall be responsible for developing, operating and maintaining the OGTN. The purposes of the OGTN shall include the following:

l. Development of a comprehensive, unified statewide telecommunications network to effectively and efficiently meet the communication needs of educational entities and agencies of state government;

2. Effective and efficient utilization of existing telecommunications systems operated by educational entities and agencies of state government; and

3. Elimination and prevention of unnecessarily duplicative telecommunications systems operated by educational entities and agencies of state government.

D. In developing, operating and maintaining the OGTN, the Office of State Finance shall:

l. Develop a statewide master plan for meeting the communications needs of educational entities and of agencies of state government. To facilitate the development of a statewide master plan as provided for in this paragraph:

a. the Oklahoma State Regents for Higher Education shall submit a report annually to the Director of State Finance identifying the telecommunications plans of each member of The Oklahoma State System of Higher Education. For purposes of developing such report, each member shall cooperate with and submit to the State Regents a plan of its telecommunications needs, including, but not limited to, any interactive video plans, the purchase of informational data bases, software for manipulation of bibliographic records, and the use of telecommunications equipment or services,

b. the State Superintendent of Public Instruction shall submit a report annually to the Director of State Finance identifying the telecommunications plans of the public common school system of the state. For purposes of developing such report, the respective public elementary and secondary schools shall cooperate with and submit to the State Superintendent a plan of their telecommunications needs, including, but not limited to, any interactive video plans, the purchase of informational data bases, software for manipulation of bibliographic records, and the use of telecommunications equipment or services,

c. the State Director of The Oklahoma Department of Career and Technology Education shall submit a report annually to the Director of State Finance identifying the telecommunications plans of technology center school districts. For purposes of developing such report, each technology center school district as defined in Section 14-108 of Title 70 of the Oklahoma Statutes shall cooperate with and submit to the State Director of the Oklahoma Department of Career and Technology Education a plan of its telecommunications needs, including, but not limited to, any interactive video plans, the purchase of informational data bases, software for manipulation of bibliographic records, and the use of telecommunications equipment or services,

d. the chief administrative officer of each state agency of the executive branch shall submit a plan annually to the Director of State Finance identifying the telecommunications needs of the state agency, including, but not limited to, any interactive video plans, the purchase of informational data bases, software for manipulation of bibliographic records, and the use of telecommunications equipment or services, and

e. the Director of the Oklahoma Department of Libraries shall submit a report annually to the Director of State Finance identifying the telecommunications plans of public libraries and public library systems. For purposes of developing such report, the chief administrative officer of any public library or public library system not otherwise required to submit a plan of its telecommunications needs pursuant to the provisions of this paragraph shall cooperate with and submit annually to the Director of the Oklahoma Department of Libraries a plan of its telecommunications needs, including, but not limited to, any interactive video plans, the purchase of informational data bases, software for manipulation of bibliographic records and the use of telecommunications equipment or services. To assure inclusion in the report of the plans of the telecommunications needs of - any library that is a part of any member of The Oklahoma State System of Higher Education, a public elementary or secondary school, or technology center school district, all such plans relating to libraries received by the Oklahoma State Regents for Higher Education, the State Superintendent of Higher Education, and the State Director of the Oklahoma Department of Career and Technology Education shall be submitted to the Director of the Oklahoma Department of Libraries by the respective recipients thereof as soon as practicable after receipt. The Director of the Oklahoma Department of Libraries shall certify to the Office of State

Finance that such plans are consistent with the plan developed by the Oklahoma Library Technology Network or explain any inconsistencies therewith;

2. Identify the most cost-effective means of meeting the telecommunications needs of educational entities and of agencies of state government;

3. Develop minimum mandatory standards and protocols for equipment, facilities and services of the OGTN;

4. Evaluate the advantages and disadvantages of utilizing equipment, facilities, and services of both private entities and those owned and operated by the state;

5. Recommend a fee structure to provide for the operation and maintenance of the OGTN; and

6. Seek the advice of the State Data Processing and Telecommunications Advisory Committee created by Section 41.5n of this title. **(62-41.5m)**

Section 938.2. Universal Services Funds.

* * * * *

B. There is hereby created within the Oklahoma Department of Career and Technology Education the "Oklahoma Telecommunications Technology Training Fund". Beginning September 1, 1997, each local exchange telecommunications service provider shall annually contribute seventy-five cents ($0.75) per retail local exchange access line to the Oklahoma Telecommunications Technology Training Fund until the total amount contributed by all providers to the Fund equals Seven Million Dollars ($7,000,000.00). The contribution amount for each service provider shall be based upon the number of retail local exchange access lines of that service provider in service on July 1 of each applicable year. The Oklahoma Telecommunications Technology Training Fund shall be administered by the Oklahoma Department of Career and Technology Education working in conjunction with OneNet, and shall be used to provide statewide training of teachers and school administrators in the most effective use of telecommunications and distance learning technology for the enhancement of education throughout the state. Local exchange telecommunications service providers serving fifteen percent (15%) or more of the access lines in the state may not apply for recovery of the contributions made to the Oklahoma Telecommunications Technology Training Fund from the Oklahoma Universal Service Fund created in Section 139.106 of this title. All monies in the Oklahoma Telecommunications Technology Training Fund shall be expended only for the purposes set forth in this subsection.

C. The following services are hereby declared to be Special Universal Services and such services shall be provided only after funding for the Oklahoma Universal Service Fund is implemented as set forth in Section 139.101 et seq. of this title:

* * * * *

3. Each public school building wherein classrooms are contained and each public library in the state shall, upon written request, receive one incoming, toll-free phone number and up to a total of five access lines, free of charge, to allow incoming, toll-free calls from any location within the geographic area served by the school or the public library;

4. Each public school building wherein classrooms are contained and each public library in the state shall, upon written request, receive one access line, free of charge, with the ability to connect to an Internet service provider at 1.5Mbps, in the most economically efficient manner for the carrier, or an equivalent dollar credit to be applied by the public school or public library toward similar services provided by the same carrier, for the purpose of accessing the Internet. In no case shall the Oklahoma Universal Service Fund reimburse an entity for an Internet subscriber fee or charges incurred as a result of services accessed via the Internet; and

* * * * *

D. To the extent Special Universal Services are purchased from a telecommunications service provider by another carrier, the Special Universal Services are for the exclusive use of the not-for-profit hospital, county health department, city-county health department, federally qualified health center, public school, public library or county government. Under no circumstances shall the not-for-profit hospital, county health department, city-county health department,

federally qualified health center, public school, public library or county government sell, repackage or share Special Universal Services with any other entity. **(17-139.109)**

Note: Amended by HB 1460, Sec. 1 of the 2011 Reg. Sess.

Section 939. Smoking in Public Places Act.

This act shall be known and may be cited as the "Smoking in Public Places Act". **(63-1-1521)**

Section 940. Definitions.

As used in this act:

1. "Educational facility" means a building owned, leased or under the control of a public or private school system, college or university;

2. "Health facility" means an entity which provides health services, including but not limited to hospitals, nursing homes, long-term care facilities, kidney disease treatment centers, health maintenance organizations and ambulatory treatment centers;

3. "Licensed premises" means any portion of a building, structure, room or enclosure located on real estate which is owned, leased used, controlled or operated by a licensee authorized by the Alcoholic Beverage Laws Enforcement Commission to sell liquor for consumption on the premises, but shall not include a separate or enclosed lounge or bar area as specified in Section 598 of Title 37 of the Oklahoma Statutes, service organizations or fraternal beneficiary societies which are exempt under Section 501 (c) (8) (10) or (19) of the Internal Revenue Code, a licensed premises that is part of a bowling alley area, or racetrack licensed by the Oklahoma Racing Commission;

4. "Meeting" means a meeting as defined in the Open Meeting Act, Section 304 of Title 25 of the Oklahoma Statutes;

5. "Public body" means a public body as defined in the Open Meeting Act, Section 304 of Title 25 of the Oklahoma Statutes;

6. "Public place" means:

a. an enclosed, indoor area owned or operated by a state or local governmental agency and used by the general public or serving as a place of work for public employees or a meeting place for a public body, including an office, educational facility, health facility, auditorium, arena, meeting room or public conveyance, or

b. an enclosed, indoor area which is not owned or operated by a state or local governmental agency which is used by the general public and which is;

(1) an educational facility,

(2) a health facility,

(3) an auditorium,

(4) an arena,

(5) a theater,

(6) a museum,

(7) a restaurant,

(8) licensed premises,

(9) a concert hall, and

(10) any other facility during the period of its use for a performance or exhibit of the arts;

7. "Restaurant" means any eating establishment with a seating capacity of fifty persons or more; and

8. "Smoking" means the carrying by a person of a lighted cigar, cigarette, pipe or other lighted smoking device.

B. Public place shall not include a private, enclosed room or office occupied exclusively by a smoker or smokers, even if the room or enclosed office may be visited by a nonsmoker. **(63-1-1522)**

Section 941. Smoking Prohibited in Certain Places.

A. No person shall smoke in a designated nonsmoking area in a public place, at a meeting of a public body, in a nursing facility licensed pursuant to the Nursing Home Care Act, or in a child care facility, during hours of operation, licensed pursuant to the Oklahoma Child Care Facilities Licensing Act. A nursing facility licensed pursuant to the Nursing Home Care Act may designate smoking areas for residents and their guests. Nursing facilities may designate smoking areas for employees if such designated areas are in separate rooms that are not used by residents.

B. A health facility may prohibit all smoking in such facility or may designate smoking and nonsmoking areas within the facility.

C. 1. Except as otherwise provided in paragraph 2 of this subsection, an educational facility which offers an early childhood education program or in which children in grades kindergarten through twelve are educated shall prohibit smoking, the use of snuff, chewing tobacco or any other form of tobacco product in the buildings and on the grounds of the facility by all persons including, but not limited to, full-time, part-time, and contract employees, during the hours of 7:00 a.m. to 4:00 p.m., during the school session, or when class or any program established for students is in session.

2. Career and technology centers may designate smoking areas outside of buildings, away from general traffic areas and completely out of sight of children under eighteen (18) years of age, for use by adults attending training courses, sessions, meetings or seminars.

3. An educational facility may designate smoking areas outside the buildings for the use of adults during certain activities or functions, including, but not limited to, athletic contests.

D. This section shall not apply to a room, hall or building used for a private function if the seating arrangements are under the control of the sponsor of the function and not under the control of the state or local governmental agency or the person who owns or operates the room, hall or building, or to a licensed premises that is a part of a bowling alley area, or to a racetrack licensed by the Oklahoma Racing Commission.

E. This section shall not apply to areas in which prisoners are housed in municipal jails, county jails as defined in Section 502 of Title 57 of the Oklahoma Statutes.

This section shall not apply to a separate or enclosed bar area of a licensed premises, as provided in Section 241 of Title 37 of the Oklahoma Statutes, which has as its main purpose the selling or serving of low-point beer for consumption on the premises.

F. Nothing in this section shall be construed to prohibit educational facilities from having more restrictive policies regarding smoking and the use of other tobacco products in the buildings or on the grounds of the facility. **(63-1-1523)**

Section 942. Smoking and Nonsmoking Areas Designated.

A. Smoking and nonsmoking areas shall be designated by the state or local governmental agency or the person who owns or operates a public place, except in a public place in which smoking is prohibited by law. Existing physical barriers and ventilation systems shall be used to minimize smoke in both smoking and adjacent nonsmoking areas.

B. In the case of a public place consisting of a single room, the state or local governmental agency or the person who owns or operates the single room shall be in compliance with this act if an area of the room is reserved and posted as a nonsmoking area. **(63-1-1524)**

Section 943. Measures to Prevent Smoking in Public Places.

The state or local governmental agency or the person who owns or operates a public place shall, at a minimum do the following in order to prevent smoking in nonsmoking areas:

1. Post signs which state that smoking in that public place is prohibited in designated nonsmoking areas, pursuant to this act; and

2. Ask smokers to refrain from smoking upon request of a client or employee suffering discomfort from the smoke or who has hypersensitivity to smoke. **(63-1-1525)**

Section 944. Rules and Regulations.

The State Board of Health shall promulgate rules and regulations necessary to implement the provisions of this act. The Oklahoma State Board of Examiners for Nursing Home Administrators shall establish and adopt a policy to effectuate compliance with the Smoking in Public Places Act, Section 1-1521 et seq. of this title, which shall be applicable to nursing homes and long-term care facilities. **(63-1-1526)**

Section 945. Preemption Authorized.

The State Legislature by adopting this act intends to preempt any other regulation promulgated to control smoking in public places and to standardize laws that governmental subdivisions may adopt to control smoking. Cities and towns may enact and enforce laws prohibiting and penalizing conduct under provisions of this act, but the provisions of such laws shall be the same as provided in this act and the enforcement provisions under such laws shall not be more stringent than those of this act. **(63-1-1527)**

Section 945.1. School Buildings Non-Smoking.

* * * * *

D. All buildings, or portions thereof, owned by an educational facility as is defined in the Smoking in Public Places and Indoor Workplaces Act shall be designated as nonsmoking as provided for in Section 1-1523 of Title 63 of the Oklahoma Statutes. All campuses, buildings and grounds, or portions thereof, owned or operated by an institution within The Oklahoma State System of Higher Education may be designated as tobacco free, including smoking or smokeless tobacco, by the institution upon adoption of a policy stating the tobacco restrictions for the institution and an intent to enforce the penalty for violations as set forth in subsection N of this section.

* * * * *

N. Any person who knowingly violates this act is guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than Ten Dollars ($10.00) nor more than One Hundred Dollars ($100.00). **(21-1247)**

Section 946. Oklahoma State Recycling and Recycled Materials Procurement Act - Definitions.

As used in the Oklahoma State Recycling and Recycled Materials Procurement Act:

1. "Department" means the Department of Central Services;

2. "Paper recycling" means the processing of scrap paper or other such recoverable waste paper into reusable products. Such collection and recycling of recoverable waste paper shall be done in an environmentally acceptable manner;

3. "State public entity" means the State Legislature, any bureau, agency, board, commission, or authority of the state, the office of the Governor, the judiciary, or any state university, school district, or county of the state which is supported in whole or in part by state funds;

4. "Recoverable waste paper" generated by businesses or consumers, which has served its intended use and has been separated from solid waste for purposes of collection and recycling, shall include, but is not limited to, such paper as computer cards, computer print-out papers, copy paper, white office papers, colored office papers, corrugated boxes, newspapers, envelope coatings, bindery trimmings, printing scrap and butt rolls. Mill broke repulped internally within a paper manufacturing facility shall not be considered recoverable waste paper;

5. "Director" means the Director of Central Services;

6. "Division" means the Purchasing Division of the Department of Central Services;

7. "Recycled paper products" means all paper products manufactured from recoverable waste paper with not less than ten percent (10%) of their total weight consisting of waste paper;

8. "Products manufactured with recycled materials" means products that contain at least a minimum percentage of specified materials recovered from the recycling of post-consumer products as defined in rules and regulations promulgated by the Division;

9. "Recyclable materials" means materials or products which are capable of being recycled, including but not limited to paper, glass, plastics, metals, automobile oil, and batteries. Refuse-derived fuel or other material that is destroyed by incineration is not a recyclable material; and

10. "Uncoated" means not coated with plastic, clay, or other material used to create a glossy finish. **(74-85.51)**

Section 947. Rules and Regulations.

A. It is the intent of the Legislature that all state public entities comply with the provisions of the Oklahoma State Recycling and Recycled Materials Procurement Act. All political subdivisions of this state are encouraged to collect and recycle recoverable waste paper and recyclable materials to the greatest extent possible. The Department of Central Services shall adopt such rules, regulations, and orders as are necessary for the implementation of the Oklahoma State Recycling and Recycled Materials Procurement Act. The rules and regulations at a minimum shall establish procedures for:

1. The identification, handling, hauling, storing, safety factors, and disposition of recoverable waste paper and recyclable materials;

2. The separation of recoverable waste paper and recyclable materials from solid waste generated by state public entities;

3. A system for the collection of recoverable waste paper and recyclable materials from solid waste generated by state public entities;

4. Assuring that the recoverable waste paper and recyclable materials are made available to private industries for collection and recycling at the greatest economic value and to the greatest extent feasible. The Department may execute multiple contracts as necessary for purposes including but not limited to serving other government entities and different geographic areas of the state. In addition to the preference provisions of Section 85.53 of this title, rules and regulations governing availability of recyclable materials shall give preference to private recyclable materials industries that operate in Oklahoma, and that will employ residents of the state to handle, transport and sort such materials;

5. The purchase of uncoated office paper and printed paper whenever practicable; and

6. Separating for the purpose of recycling all recyclable materials including but not limited to lead acid batteries, waste oil and major appliances that are generated as solid waste by state public entities.

B. All state public entities shall comply with the procedures and systems established pursuant to the Oklahoma State Recycling and Recycled Materials Procurement Act.

C. 1. The Director may exempt any single activity or facility of any state public entity from compliance with rules promulgated pursuant to the Oklahoma State Recycling and Recycled Materials Procurement Act if the Director determines there is a lack of market availability or that it is not economically feasible to follow and comply with the procedures and systems established by the Director.

2. The exemption shall be for a period not in excess of one (1) year, but additional exemptions may be granted for periods not to exceed one (1) year.

3. The Director shall make public all exemptions together with the reasons for granting such exemptions. **(74-85.52)**

Section 948. Requirements for State Public Entities.

A. It is the intent of the Legislature that all state public entities procure products or materials with the recycled content levels required or specified by rules promulgated pursuant to the provisions of this section when such products or materials are available.

B. By July 1, 1993, the Division when accepting bids for state purchases of supplies, equipment and materials shall give preference to the suppliers of paper products or products manufactured with recycled materials if:

1. The price for the recycled products and materials is not substantially higher than the price for nonrecycled products and materials. The Department of Central Services shall establish by rule the annual percentage over and above the price of nonrecycled products and materials which will be allowed for the purchase of recycled products and materials; and

2. The quality and grade requirements are otherwise comparable.

C. By July 1, 1993, any state public entity not subject to the Central Purchasing Act when accepting bids for purchases of supplies, equipment and materials, shall give preference to the suppliers of recycled paper products and products manufactured from recycled materials if:

1. The price for recycled products and materials is not substantially higher than the price for nonrecycled products and materials. The price paid for recycled products and materials shall not exceed the percentage over the price for nonrecycled products and materials established by the Department; and

2. The quality and grade requirements are otherwise comparable.

D. The Purchasing Division and any state public entity not subject to the Central Purchasing Act shall ensure, to the greatest extent economically practical and possible, that the recycled or recovered content of all paper purchased by the Division or agency, measured as a proportion, by weight, of paper products purchased in a calendar year, is not less than the following:

1. By 1995, ten percent (10%) of all purchased paper;

2. By 1997, twenty-five percent (25%) of all purchased paper; and

3. By 1999, forty percent (40%) of all purchased paper.

E. 1. By July 1, 1993, the Division shall promulgate rules and implement a program for extending state procurement specifications to products manufactured with recycled materials and identifying recycled products.

2. By July 1, 1993, any state public entity not subject to the Central Purchasing Act shall implement a program for extending agency procurement specifications to products manufactured with recycled materials.

F. In writing specifications under this section, the Department and any other state public entity shall incorporate requirements relating to the recyclability and ultimate disposition of products and, wherever possible, shall write the specifications so as to minimize the amount of solid waste generated by the state. All specifications under this section shall discourage the purchase of single-use, disposable products and require, whenever practical, the purchase of multiple-use, durable products.

G. For materials that are not otherwise recycled, the Division and each state public entity not subject to the Central Purchasing Act shall, to the extent practicable, enter into agreements to purchase products made from recyclable materials from vendors who agree to purchase like materials separated from solid waste generated by the state for reuse or use as a raw material in manufacturing. **(74-85.53)**

Section 949. Miscellaneous Provisions.

A. The Purchasing Division shall review the procurement specifications currently used by the Department of Central Services in order to eliminate, wherever economically feasible, discrimination against the procurement of recycled paper and other products manufactured with recycled materials.

B. The Division shall establish purchasing practices which, to the maximum extent economically feasible, assure purchase of recycled paper products.

C. The Director of Central Services shall review and incorporate, where appropriate, guidelines published in the Federal Register.

D. The Director shall promulgate rules to encourage recycling and conservation of purchased products. **(74-85.54)**

Section 950. Management Practices and Annual Report.

A. Each state public entity whether or not subject to the Central Purchasing Act shall:

1. Be subject to the rules promulgated by the Purchasing Division regarding the purchase of recycled products;

2. Establish management practices in accordance with the provisions of the Oklahoma State Recycling and Recycled Materials Procurement Act;

3. Report by November 1 of each year to the Director of Central Services the following:

a. the total amount of waste paper and other recyclable materials sold during the previous fiscal year,

b. the amount of procured recycled paper products and other products manufactured with recycled materials, and

c. the total amount of monies collected and expended to implement the Oklahoma State Recycling and Recycled Materials Procurement Act; and

4. The Director shall coordinate the information provided by state public entities and report and submit such information to the Governor, the President Pro Tempore of the Senate, and to the Speaker of the House of Representatives on or before January 15 of each year.

B. It is the intention of the Legislature that all state public entities and other governmental subdivisions of this state aggressively pursue procurement practices that encourage solid waste reduction and development of markets for recyclable materials and compost and shall, whenever practical, procure products containing recycled materials. **(74-85.55)**

Section 951. Clearinghouse, Cooperative Buying and Uniform Specifications.

A. The Department of Central Services shall maintain a clearinghouse of information regarding products made from recycled paper products and products manufactured with recycled materials for purchase by state public entities. The clearinghouse shall include information concerning the availability, price and quality of products made from recycled paper products and products manufactured with recycled materials. The clearinghouse shall also include information concerning vendors and other persons willing to purchase recyclable materials from state public entities. The Department shall develop a mechanism to make this information available to all state public entities.

B. The Department may enter into agreements with purchasing agents of any other state, local governments, or the federal government under which any of the parties may agree to participate in, administer, sponsor or conduct purchasing transactions under a joint contract for the purchase of materials, supplies, equipment, permanent personal property, miscellaneous capital or contractual services consistent with this act.

C. The Department may cooperate with purchasing agents and other interested parties of any other state, local governments, or the federal government to develop uniform purchasing specifications on a regional or national level to facilitate cooperative interstate purchasing transactions. **(74-85.55a)**

Section 952. Public Competitive Bidding Act of 1974.

This act shall be known and may be cited as the "Public Competitive Bidding Act of 1974". **(61-101)**

A public construction contract entered into between an Oklahoma public school and an out-of-state purchasing cooperative that does not comply with the specific terms of Oklahoma's Public Competitive Bidding Act of 1974 does not satisfy Oklahoma law, even if it follows that state's competitive bidding procedures. The existence of an interlocal agreement between the school and the purchasing cooperative pursuant to the Oklahoma Interlocal Cooperation Act does not exempt a school from compliance with the Public Competitive Bidding Act of 1974. *December 19, 2008 (AG Op. No. 08-33)*

Public Competitive Bidding Act does not apply to the awarding of a contract that exceeds fifty thousand dollars by a school district for routine janitorial and cleaning service at its public buildings, because such services do not constitute performing maintenance. *March 4, 2008 (AG Op. No. 08-3)*

Vocational and technical school boards of education are not required to solicit competitive bids on contracts for supplies and materials; however, if the contract exceeds a value of $500, the contract must be in writing. *November 3, 1981 (AG Op. No. 81-195)*

Section 953. Definitions.

As used in the Public Competitive Bidding Act of 1974:

1. "Administrator" means the State Construction Administrator of the Construction and Properties Division of the Department of Central Services;

2. "Awarding public agency" means the public agency which solicits and receives sealed bids on a particular public construction contract;

3. "Bidding documents" means the bid notice, instruction to bidders, plans and specifications, bidding form, bidding instructions, general conditions, special conditions and all other written instruments prepared by or on behalf of an awarding public agency for use by prospective bidders on a public construction contract;

4. "Chief administrative officer" means an individual responsible for directing the administration of a public agency. The term does not mean one or all of the individuals that make policy for a public agency;

5. "Public agency" means the State of Oklahoma, and any county, city, town, school district or other political subdivision of the state, any public trust, any public entity specifically created by the statutes of the State of Oklahoma or as a result of statutory authorization therefor, and any department, agency, board, bureau, commission, committee or authority of any of the foregoing public entities;

6. "Public construction contract" or "contract" means any contract, exceeding Fifty Thousand Dollars ($50,000.00) in amount, awarded by any public agency for the purpose of making any public improvements or constructing any public building or making repairs to or performing maintenance on the same except where the improvements, construction of any building or repairs to the same are improvements or buildings leased to a person or other legal entity exclusively for private and not for public use and no public tax revenues shall be expended on or for the contract unless the public tax revenues used for the project are authorized by a majority of the voters of the applicable public agency voting at an election held for that purpose and the public tax revenues do not exceed twenty-five percent (25%) of the total project cost. The amount of public tax dollars committed to the project will not exceed a fixed amount established by resolution of the governing body prior to or concurrent with approval of the project;

7. "Public improvement" means any beneficial or valuable change or addition, betterment, enhancement or amelioration of or upon any real property, or interest therein, belonging to a public agency, intended to enhance its value, beauty or utility or to adapt it to new or further purposes. The term does not include the direct purchase of materials, equipment or supplies by a public agency, or any personal property, including property as defined in paragraphs 1 and 4 of subsection B of Section 430.1 of Title 62 of the Oklahoma Statutes; and

8. "Retainage" means the difference between the amount earned by the contractor on a public construction contract, with the work being accepted by the public agency, and the amount paid on said contract by the public agency. **(61-102)**

A school district must comply with the requirements of the Public Competitive Bidding Act in a purchase contract for a retrofit metal roof if the cost exceeds $25,000.00. *March 31, 2005 (AG Op. No. 05-12)*

Public Competitive Bidding Act does not affect bonding requirements of 61 O.S., §1, or minimum wage requirements of 40 O.S., §196.1-196.12. *July 9, 1979 (AG Op. No. 79-204)*

"Construction", for purposes of Public Competitive Bidding Act means to put together in proper place and order constituent parts and materials used. *Carpet City, Inc. v. Stillwater Municipal Hospital Authority*, 536 P.2d 335 (Okla. 1975)

Carpet, installation, or carpet and installation to be secured to subfloors in construction of public trust facility would become "part of the realty"; contract for such carpet, installation, or carpet and installation was subject to provisions of Public Competitive Bidding Act. *Carpet City, Inc. v. Stillwater Municipal Hospital Authority*, 536 P.2d 335 (Okla. 1975)

Section 954. Public Construction Contracts - General Requirements.

A. Unless otherwise provided by law, all public construction contracts exceeding Fifty Thousand Dollars ($50,000.00) shall be let and awarded to the lowest responsible bidder, by open competitive bidding after solicitation for sealed bids, in accordance with the provisions of the Public Competitive Bidding Act of 1974. No work shall be commenced until a written contract is executed and all required bonds and insurance have been provided by the contractor to the awarding public agency.

B. Except as provided in subsection D of this section, other construction contracts for the purpose of making any public improvements or constructing any public building or making repairs to the same for Fifty Thousand Dollars ($50,000.00) or less shall be let and awarded to the lowest responsible bidder by receipt of written bids or awarded on the basis of competitive quotes to the lowest responsible qualified contractor. Work may be commenced in accordance with the purchasing policies of the public agency.

C. Except as provided in subsection D of this section, other construction contracts for less than Five Thousand Dollars ($5,000.00) may be negotiated with a qualified contractor. Work may be commenced in accordance with the purchasing policies of the public agency.

D. The provisions of this subsection shall apply to public construction for minor maintenance or minor repair work to public school district property. Other construction contracts for less than Twenty-five Thousand Dollars ($25,000.00) may be negotiated with a qualified contractor. Construction contracts equal to or greater than Twenty-five Thousand Dollars ($25,000.00) but less than Fifty Thousand Dollars ($50,000.00) shall be let and awarded to the lowest responsible bidder by receipt of written bids. No work shall be commenced on any construction contract until a written contract is executed and proof of insurance has been provided by the contractor to the awarding public agency.

E. The Construction and Properties Division of the Department of Central Services may award contracts using best value competitive proposals. As used in this subsection, "best value" means an optional contract award system which can evaluate and rank submitted competitive performance proposals to identify the proposal with the greatest value to the state. The Department of Central Services, pursuant to the Administrative Procedures Act, shall promulgate rules necessary to implement the provisions of this subsection. **(61-103)**

Note: Amended by SB 96, Sec. 1 of the 2011 Reg. Sess. Effective November 1, 2011.

Contract for construction management services is a contract for personal services involving professional judgment or scientific knowledge and is not subject to competitive bidding act. *McMaster Constr., Inc. v. Board of Regents of Okla. Colleges*, 934 P.2d 335 (Okla. 1997)

Board cannot consider modification of a bid, after notice and opening time have expired and another bid has been approved. *August 5, 1977 (AG Op. No. 77-207)*

Section 955. Appointment of Agent to Make Purchases.

The governing body of any political subdivision of this state may duly appoint as its agent any individual or individual of a legal entity, with whom the political subdivision has duly entered into a public contract pursuant to law, to make purchases necessary for carrying out the public contract. **(61-103.2)**

Note: Section 697 herein provides that sales of tangible personal property or services to subcontractors as well as contractors to school district contracts are exempt form sales tax.

Section 955.1. Force Account and Emergency Asbestos Abatement.

Nothing in the Public Competitive Bidding Act of 1974 shall be construed to prohibit a school district from erecting a building or making improvements on a force account basis. Contracts between a state agency and a school district for the purpose of emergency asbestos abatement shall be exempt from the provisions of the Public Competitive Bidding Act of 1974. **(61-103.4)**

When undertaking a construction project, a school district may complete as much of the work as it chooses on a force account basis. The term "force account" means "the erecting of a building or the making of an improvement on district property by the use of the district's own employees, purchasing its own materials and leasing the necessary equipment all under the supervision of the district." The remainder of the project may be bid as a public construction contract under the applicable provisions of the Public Competitive Bidding Act of 1974. *(AG Op. No. 2010-13)*

Board of Education must adhere strictly to Public Competitive Bidding Act of 1974 in awarding contracts for making improvements to school buildings. *January 6, 1982 (AG Op. No. 81-329)*

The term "force account" means the erecting of a building or the making of an improvement on district property by the use of the district's own employees, purchasing its own materials, and leasing the necessary equipment all under the supervision of the district. *June 4, 1980 (AG Op. No. 80-108)*

The term "force account" means the purchase of necessary materials, and the employment of necessary workmen, by the school district itself, rather than entering into a contract with a builder or other contractor to construct the building or other improvement. *AG Op. April 21, 1955*

Addition to school building may be constructed from proceeds of bond issue on a force account basis, without a contractor or an architect. *AG Op. August 18, 1954*

Section 956. Proposals - Notice.

All proposals to award public construction contracts shall be made equally and uniformly known by the awarding public agency to all prospective bidders and the public in the following manner:

1. Notice thereof shall be mailed, by first-class mail, to all known prospective bidders, who have made known, in writing to the public agency their interest in bidding within the twelve (12) months immediately preceding the date of opening bids, at least twenty (20) days prior to the time set for opening bids; and

2. Notice thereof shall be given by publication in a newspaper of general circulation and published in the county where the work, or the major part of it, is to be done, such notice by publication to be published in two (2)

consecutive weekly issues of said newspaper, with the first publication thereof to be at least twenty (20) days prior to the date set for opening bids; and

3. Notice thereof shall be sent to trade or construction publications for their use and information whenever the estimated cost of the contract exceeds Fifty Thousand Dollars ($50,000.00); provided however, that this section shall not be construed as requiring the publication of said notice in such trade or construction publication. **(61-104)**

Section 957. Bid Notices.

All bid notices shall set forth the following information:

1. The character of the proposed public construction contract in sufficient details that all bidders should know exactly what their obligation will be, either in the bid notice itself or by reference to bidding documents on file in the main office of the awarding public agency; and

2. The name of the officer, agent or employee of the awarding public agency and the office location and address of such person, from whom a complete set of bidding documents regarding such proposed contract may be obtained, together with the amount of the cost deposit required therefor, if any; and

3. The date, time and place of opening of the sealed bids; and

4. The name and office location and address of the office of the awarding public agency to whom the sealed bids should be submitted; and

5. Any additional information regarding such proposed contract deemed by the awarding public agency to be of beneficial interest to prospective bidders or the public. **(61-105)**

Section 958. Bidding Documents.

At least one (1) complete set of bidding documents regarding a proposed public construction contract shall be on file in the main office of the awarding public agency at least twenty (20) days prior to the date set for opening bids. The officer, agent or employee of the awarding public agency designated in the bid notice shall have a sufficient number of complete sets of said bidding documents and shall provide a complete set of same to any prospective bidder, upon request; provided, however, that the awarding public agency may require a reasonable deposit for each such set; provided, that such deposit shall not exceed the actual cost of duplicating or printing. The public agency may retain all or part of said deposit if so stated in the notice for bids. **(61-106)**

Awarding public agency may assess charge for providing set of bidding documents not to exceed actual cost of duplication if charge is clearly set out in project bid notice. *May 31, 1986 (AG Op. No. 83-124)*

Requirement that documents be on file for 20 days does not prevent award of emergency contract under Section 694 herein. *July 7, 1976 (AG Op. No. 76-255)*

Section 959. Deposit.

A. A bidder on a public construction contract exceeding Fifty Thousand Dollars ($50,000.00) shall accompany the bid with:

1. A certified check, cashier's check or bid bond equal to five percent (5%) of the bid, which shall be deposited with the awarding public agency as a guaranty; or

2. An irrevocable letter of credit containing terms the Department of Central Services prescribes, issued by a financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation for the benefit of the state, on behalf of the awarding public agency, in an amount equal to five percent (5%) of the bid. The awarding public agency shall deposit the irrevocable letter of credit with the Department of Central Services.

B. The cost of republication of the notice to bidders, actual expenses incurred by reason of the bidder's default and the difference between the low bid of the defaulting bidder and the amount of the bid of the bidder to whom the contract is subsequently awarded, but not to exceed the amount of the certified check, cashier's check, bid bond or irrevocable letter of credit may, at the discretion of the awarding public agency, be forfeited to the awarding public agency in the event the apparently successful bidder fails to execute the contract or fails to provide the required bonds or irrevocable letters of credit and insurance to the awarding public agency.

C. The public agency shall, upon receipt of notice from the awarding public agency, return a certified or cashier's check, bid bond, or irrevocable letter of credit to the successful bidder on execution and delivery of the contract and required bonds or irrevocable letters of credit and insurance. Checks of unsuccessful bidders shall be returned to them in accordance with the terms of the bid solicitation.

D. Nothing contained herein shall be construed so as to prevent the awarding public agency or the courts from exonerating the bidder and other parties to the bid security document from liability upon a timely showing that the bidder committed what the courts have determined under the common law to be an excusable bidding error and for that reason it would not be equitable to enforce the bid security. **(61-107)**

> When it was discovered that contractor's bid was lowest, contractor became "apparently successful bidder" under statute requiring forfeiture of bid bond if apparently successful bidder does not execute contract; apparently successful bidder is one who, unless something extraordinary occurs, will be awarded contract; it made no difference that contractor tried to withdraw its bid before school board formally awarded contract. *J.D. Graham Constr., Inc. v. Pryor Public Schools*, 854 P.2d 917 (Okla. App. 1993)

Section 960. Information About Bidder.

Each bidder shall accompany the bid with a written statement under oath disclosing the following information:

1. The nature of any partnership, joint venture or other business relationships then in effect or which existed within one (1) year prior to the date of such statement with the architect, engineer or other party to the project;

2. Any such business relationship then in effect or which existed within one (1) year prior to the date of such statement between any officer or director of the bidding company and any officer or director of the architectural or engineering firm or other party to the project; and

3. The names of all persons having any such business relationships and the positions they hold with their respective companies or firms.

If none of the business relationships hereinabove mentioned exist, then a statement to that effect. **(61-108)**

Section 961. Untimely Bids.

Any bid received by the awarding public agency or an officer or employee thereof, more than ninety-six (96) hours excluding Saturdays, Sundays and holidays before the time set for the opening of bids, or any bid so received after the time set for opening of bids, shall not be considered by the awarding public agency and shall be returned unopened to the bidder submitting same. **(61-109)**

Section 962. Opening of Bids.

All bids shall be sealed and opened only at the time and place mentioned in the bid section, and read aloud in the presence of an administrative officer of the awarding public agency. Such bid opening shall be open to the public and to all bidders. **(61-110)**

> Board cannot consider modification of a bid, after notice and opening time have expired and another bid has been approved. *August 5, 1977 (AG Op. No. 77-207)*

Section 963. Award of Contract.

The awarding of a contract to the lowest responsible bidder or bidders shall be made within thirty (30) days after the opening of bids unless the governing body of the awarding public agency, by formal recorded action and for good

cause shown, provides for a reasonable extension of that period, which extension period shall not in any event exceed fifteen (15) days where only state or local funds are involved, or not to exceed ninety (90) days on any award of contract for the construction of a public improvement where funds are utilized which are furnished by an agency of the United States Government. Upon mutual written agreement between the lowest responsible bidder or bidders and the awarding public agency, the Division may extend the contract award period no more than one hundred twenty (120) days from the bid opening date. **(61-111)**

Section 964. All Bids Open to Public Inspection.

All bids, both successful and unsuccessful, and all contracts and required bonds shall be placed on file maintained in the main office of the awarding public agency for a period of five (5) years from the date of opening of bids or for a period of three (3) years from the date of completion of the contract, whichever is longer, shall be open to public inspection and shall be matters of public record. **(61-112)**

Section 965. Execution of Contract - Bonds - Insurance.

A. Except as otherwise provided by law, within the period of time, not to exceed sixty (60) days, specified in the bid notice by the awarding public agency, a contract embodying the terms set forth in the bidding documents shall be executed by the awarding public agency and the successful bidder. No bidder shall obtain any property right in a contract awarded under the provisions of the Public Competitive Bidding Act of 1974 until the contract has been fully executed by both the bidder and the awarding public agency.

B. Except as otherwise provided by law, within the period of time specified in subsection A of this section, the following shall be provided by the contractor to the awarding public agency for contracts exceeding Fifty Thousand Dollars ($50,000.00):

1. A bond or irrevocable letter of credit complying with the provisions of Section 1 of this title;

2. A bond in a sum equal to the contract price, with adequate surety, or an irrevocable letter of credit containing terms prescribed by the Construction and Properties Division of the Department of Central Services issued by a financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation for the benefit of the state, on behalf of the awarding public agency, in a sum equal to the contract price, to ensure the proper and prompt completion of the work in accordance with the provisions of the contract and bidding documents;

3. A bond in a sum equal to the contract price or an irrevocable letter of credit containing terms as prescribed by the Division issued by a financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation for the benefit of the state, on behalf of the awarding public agency, in a sum equal to the contract price, to protect the awarding public agency against defective workmanship and materials for a period of one (1) year after acceptance of the project; and

4. Public liability and workers' compensation insurance during construction in reasonable amounts. A public agency may require the contractor to name the public agency and its architects or engineers, or both, as an additional assured under the public liability insurance, which requirement, if made, shall be specifically set forth in the bidding documents.

C. A single irrevocable letter of credit may be used to satisfy paragraphs 1, 2 and 3 of subsection B of this section, provided such single irrevocable letter of credit meets all applicable requirements of subsection B of this section.

If the contractor needs additional time in which to obtain the bond required pursuant to subsection B of this section, the contractor may request and the awarding agency may allow the contractor an additional sixty (60) days in which to obtain the bond.

D. 1. After the award of a contract, but prior to its execution, an awarding public agency, upon discovery of an administrative error in the award process that would void an otherwise valid award, may suspend the time of execution of the contract. The agency may rescind the award and readvertise for bids, or may direct correction of the error and award the contract to the lowest responsible bidder, whichever shall be in the best interests of the state.

2. If the awarding public agency has a governing body, the agency shall, at the next regularly scheduled public business meeting of the governing body of the agency, upon the record, present to the governing body that an error has been made in the award process and shall state the nature of the error. The governing body, upon presentation of the facts of the error, may rescind the award and readvertise for bids, or may direct correction of the error and award the contract to the lowest responsible bidder, whichever shall be in the best interests of the state.

E. No public agency shall require for any public construction project, nor shall any general contractor submit a project bid based on acquiring or participating in, any wrap-up, wrap-around, or controlled insurance program. For the purposes of this subsection, "wrap-up, wrap-around, or controlled insurance program" means any insurance program that has the effect of disabling or rendering inapplicable any workers' compensation, commercial general liability, builders' risk, completed operations, or excess liability insurance coverage carried by a subcontractor that is engaged or to be engaged on a public construction project unless this is a cost savings to the public or the need exists for a specialized or complex insurance program and shall not apply to contracts less than Seventy-five Million Dollars ($75,000,000.00).

F. This act shall not apply to the public construction projects of constitutional agencies which had authorized a wrap-up, wrap-around, or controlled insurance program on or before April 11, 2000. **(61-113)**

Note: Amended by SB 96, Sec. 2 of the 2011 Reg. Sess. Effective November 1, 2011.

General contractor was not required to prove malice, in libel action against city housing authority arising out of termination letter authority sent to contractor and contractor's bonding company; contractor only had to prove statements were false or malicious. *Bird Const. Co., Inc. v. Oklahoma City Housing Authority*, 2005 OK CIV APP 12, 110 P.3d 560

Certificates of Non-Coverage for Workers' Compensation issued prior to July 1, 2005, remain valid until the certificates' original date of expiration. *June 29, 2005 (AG Op. No. 05-22)*

Provision requiring contractor to provide public liability insurance during construction is mandatory and may not be waived. However, such provision does not create a right of action for an injured third party and a member of the public does not obtain third party beneficiary status. *Hoar v. Aetna Casualty & Surety Co.*, 1998 OK 95, 968 P.2d 1219

A bond is not necessarily required for all work that might be done on state buildings, but is required when the factual situation fits within the statutorily prescribed bonding requirements. *June 9, 1995 (AG Op. No. 95-31)*

A public agency may make a purchase of material for public construction without triggering the bonding requirements of the Act. *June 9, 1995 (AG Op. No. 95-31)*

Those who supply materials to contractor for the construction of public projects are presumed to have knowledge of the statutory duty of the contractor to give a bond; if they supply materials prior to the bond being given, they do so at damages from the public entity; the proximate cause of the loss is their own negligence in not discovering whether the statutory payment bond had been given. *Haskell Lemon Constr. Co. v. ISD No. 12*, 589 P.2d 677 (Okla. 1979)

Bond and insurance requirements of Public Competitive Bidding Act cannot be waived. *Carpet City, Inc. v. Stillwater Municipal Hospital Authority*, 536 P.2d 335 (Okla. 1975)

Section 966. Bond, Irrevocable Letter of Credit or Affidavit of Payment of Indebtedness to be Furnished on Public Works Contracts - Notice of Rental of Equipment.

A. Prior to an award of a contract exceeding Fifty Thousand Dollars ($50,000.00) for construction or repair of a public building, or structure, or improvement to real property, the person that receives the award shall:

1. Furnish a bond with good and sufficient sureties payable to the state in a sum not less than the total sum of the contract; or

2. Cause an irrevocable letter of credit, containing terms the Department of Central Services prescribes, to be issued for the benefit of the state by a financial institution insured by the Federal Deposit Insurance Corporation in a sum not less than the total sum of the contract.

B. The bond or irrevocable letter of credit shall ensure the proper and prompt completion of the work in accordance with the contract and shall ensure that the contractor shall pay all indebtedness the contractor incurs for the

contractor's subcontractors, and all suppliers of labor, material, rental of machinery or equipment, and repair of and parts for equipment the contract requires the contractor to furnish.

C. For a contract not exceeding Fifty Thousand Dollars ($50,000.00), in lieu of a bond or irrevocable letter of credit, the contractor shall submit an affidavit of the payment of all indebtedness incurred by the contractor, the contractor's subcontractors, and all suppliers of labor, material, rented machinery or equipment, and repair of and parts for equipment used or consumed in the performance of the contract. The execution of the affidavit with knowledge that any of the contents of the affidavit are false, upon conviction, shall constitute perjury, punishable as provided for by law. **(61-1)**

Section 967. Partial Payments - Retainage.

A. A public construction contract shall provide for partial payment based upon work completed. The contract shall provide that up to five percent (5%) of all partial payments made shall be withheld as retainage.

B. The Department of Transportation or the Oklahoma Turnpike Authority shall not withhold retainage on public construction contracts awarded by the Department or the Authority.

C. The Department of Transportation shall not withhold retainage or require any bond on projects awarded to railroads on the railroad's privately owned or operated rail property. **(61-113.1)**

Note: Amended by SB 2968, Sec. 1 of the 2011 Reg. Sess. Effective November 1, 2011.

Section 968. Withdrawals from Retainage - Deposit of Securities.

The contractor may, from time to time, withdraw any part, or the whole, of the amount which has been retained from partial payments to the contractor pursuant to the terms of the contract, upon depositing with or delivery to the awarding public agency, or other appropriate public official designated in the contract document:

(1) United States Treasury bonds, United States Treasury notes, United States Treasury bills or (2) general obligation bonds of the State of Oklahoma, or (3) certificates of deposit from a state or national bank having its principal office in the State of Oklahoma. No retained amount shall be withdrawn which would represent an amount in excess of the market value of the securities at the time of deposit or of the par value of such securities, whichever is lower.

At the time of deposit of any securities the same shall be endorsed, if necessary, and shall be accompanied by a conditional assignment to the awarding public agency, or to the other public body designated as "owner" in the contract documents, which will empower the awarding public agency, or other appropriate public official designated to have custody of same, to negotiate same at any time to the extent necessary to cause the contract to be fulfilled. The securities which remain on deposit at the time of completion of any contract and observance by the parties to the contract of any other statutory obligations relative thereto shall be returned to the contractor. **(61-113.2)**

Section 969. Interest on Final Payment.

When interest is due the contractor, all awarding public agencies, other than school districts, shall pay to the contractor interest at the rate of one and one-half percent (1 ½%) per month of the final payment due the contractor. When interest is due to the contractor, school districts shall pay to the contractor interest at the rate of three fourths percent (3/4%) per month of the final payment due the contractor. For lump sum contracts the interest shall commence thirty (30) days after the work under the contract has been completed and accepted and all required material certifications and other documentation required by the contract have been furnished the awarding public agency by the contractor, and shall run until the date when the final payment or estimate is tendered to the contractor.

For contracts bid by unit prices the interest shall commence sixty (60) days after the above conditions are satisfied. When contract quantities or the final payment amount is in dispute, the interest-bearing period shall be suspended until the conclusion of arbitration and settlement of the dispute. **(61-113.3)**

Section 970. Nepotism.

The chief administrative officer and members of the governing body of the awarding public agency authorizing or awarding or supervising the execution of a public construction contract, and their relatives within the third degree of consanguinity or affinity, are forbidden to be interested directly or indirectly through stock ownership, partnership interest or otherwise in any such contract. Contracts entered into in violation of this section shall be void. Persons willfully violating this section shall be guilty of a felony and shall be subject to removal from office. **(61-114)**

Public construction contract may not be awarded to private corporation having member of board of education on board of directors. *AG Op. April 23, 1975*

Contractor or subcontractor can employ relatives of member of board of education. *AG Op. April 23, 1975*

Corporation which is prohibited from contracting with board of education is not exempted from prohibition where board member having conflict abstains from discussing or voting on award of contract. *AG Op. April 23, 1975*

Section 971. Collusion Among Bidders.

Any agreement or collusion among bidders or prospective bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding, or otherwise, shall render the bids of such bidders void. Persons willfully violating this section shall be guilty of a felony. Each bidder shall accompany the bid with a sworn statement that the bidder has not been a party to any such agreement. The form of the statement shall be substantially as provided in Section 85.22 of Title 74, but modified in wording to refer to the appropriate public agency requesting bids. **(61-115)**

Section 972. Advance Information on Bids.

A. Any disclosure by an employee of a public agency of the terms of a bid submitted in response to a bid notice issued by a public agency in advance of the time set for opening of all bids so submitted shall be unlawful. It shall also be unlawful for any person to solicit, possess or receive information which is to be contained in a bid notice of a public agency, for use in preparing a bid, in advance of the date on which said bid notice is to be made equally and uniformly known to all prospective bidders and the public, and it shall further be unlawful for any employee of a public agency to withhold or impede the distribution of said information after notice of the bid has been given, unless the solicitation of bids has been withdrawn or the particular information in question has been deleted or replaced through alteration of the bid notice and said withdrawal or alteration has been made equally and uniformly known. Any violation of this subsection shall be a felony and shall render the proceedings void and require solicitation and award anew.

B. The estimate of the actual cost of the project made by the public agency, construction manager or consultant for the agency shall not be considered confidential and shall be available to the public in accordance with the Oklahoma Open Records Act. **(61-116)**

Section 973. Award to Other Than Lowest Bidder.

If an award is made to other than the lowest bidder, the awarding public agency shall accompany its action with a publicized statement setting forth the reason for its action. Such statement shall be placed on file, open to public inspection and be a matter of public record. **(61-117)**

Section 974. Prequalifications of Prospective Bidders.

A. In order to determine the responsibility of bidders, the awarding public agency may require prospective bidders to prequalify as responsible bidders prior to submitting bids on a public construction contract. Prequalification to bid or perform work pursuant to this section does not constitute a license. Except as provided in subsection B of this section, prequalification shall not serve as a substitute for a license otherwise required by law. Notice of any such prequalification requirement shall be made equally and uniformly known by the awarding public agency to all prospective bidders and the public in the same manner as proposals to award public construction contracts as set forth in Section 104 of this title. Financial information including, but not limited to, audited financial statements required by the awarding public agency as part of prequalification shall remain confidential.

B. The Oklahoma Transportation Commission and the Oklahoma Turnpike Authority may establish a system for prequalifying prospective bidders on construction and maintenance contracts to be awarded by the Commission or Authority. The Commission and the Authority shall be the sole judge of the qualifications of prospective bidders and shall ascertain, to their exclusive satisfaction, the qualifications of each prequalified bidder. Any contractor or subcontractor prequalified as of the effective date of this act performing signing, highway lighting, or traffic signal installation or maintenance for the Oklahoma Department of Transportation or the Oklahoma Turnpike Authority shall be allowed to continue to bid and perform such work without obtaining any additional license from this state or any political subdivision of this state. However, no contractor or subcontractor may transfer, convey or assign this exemption to any other person or entity. **(61-118)**

Section 975. Right to Reject Bids.

By majority action of the governing board of the awarding public agency, the awarding public agency shall have the right to reject any or all bids and solicit bidders again as herein provided if, in the opinion of the governing body of the public agency the best interests of the people of the State of Oklahoma would be best served by so doing. **(61-119)**

Public agency may not negotiate with low bidder where all submitted bids exceed engineer's estimate. *January 31, 1977 (AG Op. No. 76-344)*

Section 976. Contracts Not Exceeding $50,000 - Negotiation When No Bid Received.

A. If no timely bid is received after bid notices have been published on any proposed public construction contract which does not exceed Fifty Thousand Dollars ($50,000.00):

1. The governing body of a county, city, town or school district may direct its employees or agents to negotiate the contract with a prospective contractor; or

2. The state agency as defined in Section 202 of this title, shall request the State Construction Administrator of the Construction and Properties Division to negotiate a contract on it behalf.

B. The amount of a contract which may be awarded by the governing body pursuant to this section shall not exceed Fifty Thousand Dollars ($50,000.00) and the work to be performed shall be as specified in the initial bidding documents. The contract shall be executed within six (6) months after the date initially set for opening of bids. The contract and contract procedure shall conform to all other applicable provisions of the Public Competitive Bidding Act of 1974. **(61-119.1)**

Section 977. Assignment of Contracts.

No public construction contract shall be assignable by the successful bidder without written consent of the governing body of the awarding public agency, evidenced by resolution. In no event shall such a contract be assigned to a bidder who was declared by the awarding public agency not to be a responsible bidder in the consideration of bids received for the particular contract. **(61-120)**

Section 978. Change Orders.

A. Change orders or addenda to public construction contracts of One Million Dollars ($1,000,000.00) or less shall not exceed a fifteen percent (15%) cumulative increase in the original contract amount.

B. Change orders or addenda to public construction contracts of over One Million Dollars ($1,000,000.00) shall not exceed the greater of One Hundred Fifty Thousand Dollars ($150,000.00) or a ten percent (10%) cumulative increase in the original contract amount.

C. Change orders or cumulative change orders which exceed the limits of subsection A or B of this section shall require a readvertising for bids on the incomplete portions of the contract.

D. If the awarding public agency does not have a governing body, the chief administrative officer of the awarding public agency shall approve change orders. The State Construction Administrator of the Construction and Properties Division of the Department of Central Services, or the administrator's designee, shall sign and execute all contracts and change orders, as they relate to state agencies.

E. If the awarding public agency has a governing body, all change orders shall be formally approved by the governing body of the awarding public agency and the reasons for approval recorded in the permanent records of the governing body. The governing body of a municipality or technology center may delegate approval of change orders up to Forty Thousand Dollars ($40,000.00) or ten percent (10%) of any contract, whichever is less, to the chief administrative officer of the municipality or technology center or their designee, with any approved change orders reported to the governing body at the next regularly scheduled meeting.

F. The governing body of the Oklahoma Tourism and Recreation Department is authorized, upon approval of a majority of all of the members of the Oklahoma Tourism and Recreation Commission, to delegate to the Director of the agency the authority to approve change orders on a construction contract provided that the individual change order does not exceed Twenty-five Thousand Dollars ($25,000.00) in expenditure and complies with the limits established by this section. The Administrator of the Division shall sign and execute all contracts and change orders.

G. The Transportation Commission may, by rule, authorize the Director of the Department of Transportation to approve change orders in an amount of not to exceed Five Hundred Thousand Dollars ($500,000.00). Change orders approved by the Director shall be presented to the Transportation Commission during the next regular meeting and the reasons therefor recorded in the permanent records. The Oklahoma Turnpike Authority may authorize the Director of the Authority to approve change orders in an amount not to exceed Two Hundred Fifty Thousand Dollars ($250,000.00). Change orders approved by the Director of the Authority shall be presented to the Authority during the next regular meeting and the reasons for the orders recorded in permanent records.

H. All change orders for the Department of Transportation or the Authority shall contain a unit price and total for each of the following items:

1. All materials with cost per item;

2. Itemization of all labor with number of hours per operation and cost per hour;

3. Itemization of all equipment with the type of equipment, number of each type, cost per hour for each type, and number of hours of actual operation for each type;

4. Itemization of insurance cost, bond cost, social security, taxes, workers' compensation, employee fringe benefits and overhead cost; and

5. Profit for the contractor.

I. 1. If a construction contract contains unit pricing, and the change order pertains to the unit price, the change order will not be subject to subsection A or B of this section.

2. When the unit price change does not exceed Ten Thousand Dollars ($10,000.00), the unit price change order computation may be based on an acceptable unit price basis in lieu of cost itemization as required in paragraphs 1, 2, 3, 4 and 5 of subsection H of this section.

J. Alternates or add items bid with the original bid and contained in the awarded contract as options of the awarding public agency shall not be construed as change orders under the provisions of the Public Competitive Bidding Act of 1974. **(61-121)**

Note: Amended by SB 426, Sec. 1 of the 2011 Reg. Sess. Effective November 1, 2011.

The amount that a highway construction contractor can be compensated for delay cost, over and above the contract price agreed upon in its contract with a state agency, is not without limitation. In addition to caps established through a contractual agreement, public finance statutes cap the amount to be paid pursuant to a change order. Governing statutes are incorporated into the contract, and the contract will be construed to be consistent with the statutes. *M. J. Lee Constr. Co. v. Okla. Trans. Auth.,* 2005 OK 87, 125 P.3d 1205

Section 979. Suit for Injunction.

Any taxpayer of the State of Oklahoma, or any bona fide unsuccessful bidder on a particular public construction contract, within ten (10) days after any such contract has been executed, is empowered to bring suit in the district court of the county where the work, or the major part of it, is to be done to enjoin performance of such contract if entered into in violation of the provisions of this act. **(61-122)**

Section 980. Certification as to Performance Before Payment of Claim.

A. All statements or invoices submitted to the awarding public agency for work performed shall contain a certification by the supervising architect or engineer, or other supervisory official if no supervisory architect or engineer is employed for the project, that work for which payment is claimed has been performed and that such work conforms to the plans and specifications for the project. No such statement or invoice shall be paid by the awarding public agency without such certification. The execution of a certificate, as herein provided, shall not constitute a defense or in any other manner affect any cause or causes of action which the awarding public agency might otherwise have against the contractor for nonperformance of a public construction contract.

B. If project progressive payments are based on the public agency's estimated quantities of materials provided and work performed, certifications are not required. Payment of progressive estimates shall not constitute a defense or in any manner affect any cause or causes of action which the awarding public agency might have against the contractor for failure to properly perform in accordance with the project contract, plans, specifications, or special provisions. Final estimates shall contain a sworn certification signed by the contractor that the work performed and the material provided conform to the requirements of the contract, plans, specifications, and special provisions. **(61-123)**

Section 981. Inspection of Project Before Acceptance of Payment.

The awarding public agency shall make provisions for the inspection of projects prior to acceptance by the state agency and shall approve claims for payment only after proper inspection has been made as provided in the plans and specifications for said project. **(61-124)**

Section 982. Accounting Procedures.

The Director of State Finance shall prescribe the accounting procedure to be followed to pay costs and payments to contractors on public construction contracts with state agencies. The Director of State Finance is directed to include any procedures necessary to provide accountability for state funds and funds furnished by an agency of the United States Government. **(61-125)**

Section 983. Force Account.

Nothing in this act shall be construed to prevent a public agency from doing public construction work on a force account basis. **(61-126)**

Section 984. Contracts by Trust Created Under Local Industrial Development Act.

This act shall apply to contracts made by a public entity operating pursuant to the Local Industrial Development Act or the Local Development Act except where the public improvements, buildings, or repairs are being made or constructed as a part of an agreement to provide development financing assistance, and where the cost of such public improvements does not exceed twenty-five percent (25%) of the total amount of the estimated public and private investment being made within the related increment district. **(61-127)**

Note: Amended by SB 13, Sec. 3 of the 2011 Reg. Sess.

Section 985. Insurance During Construction.

The awarding public agency is authorized to require the contractor to carry insurance against damage from fire and the elements during the process of construction to the extent of protecting said public agency's equity in said project until accepted by said agency. **(61-128)**

Section 986. Prior Contracts.

This act shall not apply to contracts awarded or contracts for which bids have been solicited on or before the effective date of this act. **(61-129)**

Section 987. Certain Provisions Not Applicable if Emergency Declared.

A. The provisions of the Public Competitive Bidding Act of 1974 with reference to notice and bids shall not apply to an emergency if:

1. The governing body of a public agency declares by a two-thirds (2/3) majority vote of all of the members of the governing body that an emergency exists;

2. The Transportation Commission and the Oklahoma Tourism and Recreation Commission, by majority vote of all the members of each Commission, declare that an emergency exists; or

3. The chief administrative officer of a public agency without a governing body declares that an emergency exists.

B. The governing body of a public agency may, upon approval of two-thirds (2/3) majority of all of the members of the governing body, delegate to the chief administrative officer of a public agency the authority to declare an emergency whereby the provisions of the Public Competitive Bidding Act of 1974 with reference to notice and bids shall not apply to contracts less than Thirty-five Thousand Dollars ($35,000.00) in amount; provided, such authority of the Department of Transportation and the Oklahoma Turnpike Authority shall not extend to any contract exceeding Five Hundred Thousand Dollars ($500,000.00) in amount.

C. Upon approval of a two-thirds (2/3) majority vote, the Oklahoma Conservation Commission may delegate to the Executive Director the authority to declare an emergency and set a monetary limit for the declaration. The provisions of this subsection may only be used for the purpose of responding to an emergency involving the reclamation of abandoned coal mines or the repair of damaged upstream floodwater retarding structures.

D. An emergency declared by the Board of Corrections pursuant to subsection C of Section 65 of this title shall exempt the Department of Corrections from the limits which would otherwise be imposed pursuant to subsection B of this section for the contracting and construction of new or expanded correctional facilities.

E. The chief administrative officer of a public agency with a governing body shall notify the governing body within ten (10) days of the declaration of an emergency if the governing body did not approve the emergency. The notification shall contain a statement of the reasons for the action, and shall be recorded in the official minutes of the governing body.

F. Emergency as used in this section shall be limited to conditions resulting from a sudden unexpected happening or unforeseen occurrence or condition whereby the public health or safety is endangered.

G. The chief administrative officer of a public agency shall report an emergency within ten (10) days of the emergency declaration and include the official minutes of the governing body of the public agency, if applicable, to the State Construction Administrator of the Department of Central Services who shall compile an annual report detailing all emergencies declared pursuant to this section during the previous calendar year. The report shall be submitted to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives. **(61-130)**

Note: Amended by SB 96, Sec. 3 of the 2011 Reg. Sess. Effective November 1, 2011.

Both an unexpected happening and public health or safety must be involved before an emergency can be declared. *June 30, 1977 (AG Op. No. 77-187)*

Section 988. Split Contracts.

No contract shall be split into partial contracts for the purpose of avoiding the requirements of this act. All such partial contracts shall be void. Any person who knowingly violates the provision of this section shall, upon conviction, be guilty of a misdemeanor punishable by imprisonment in the county jail for not more than one (1) year, or by a fine of not more than One Thousand dollars (($1,000.00), or by both such fine and imprisonment. **(61-131)**

Separating a transaction into a material-only component and a labor-only component for purposes of avoiding the provisions of the Public Competitive Bidding Act is prohibited. *June 9, 1995 (AG Op. No. 95-31)*

Section 989. Other Laws Providing More Stringent Standards or Procedures.

If a statute, charter or general ordinance provides more stringent standards or procedures than those provided by this act, then the statute, charter or general ordinance shall prevail. **(61-133)**

Section 990. Insurance and Bonds - Requirements.

Any insurance or bond required by this act shall be secured from an insurance or indemnity carrier licensed to do business in the State of Oklahoma. **(61-134)**

Section 991. Contractors Cannot be Required to Purchase Bonds or Insurance from Particular Company.

A. No public agency, nor any officer, agent or employee thereof, nor any person acting or purporting to act on behalf of such public agency or an officer, agent or employee thereof, shall, with respect to any public construction contract require or attempt to require a contractor or any subcontractor to make application to or to procure or obtain from a particular insurance or surety company, agent or broker, any of the bonds or insurance required by this act.

B. Any provisions in a public construction contract or in the bidding documents in conflict herewith are hereby declared to be contrary to the public policy of this state and thereby void.

C. Any person who violates this section shall, upon conviction, be deemed guilty of a misdemeanor. **(61-135)**

Section 992. Federal Requirements Prevail Where Federal Funds Involved.

In the event any provision of this act conflicts with or is inconsistent in any manner with the rules and regulations of any agency of the United States Government, which is providing all or any portion of the funds used to finance any public construction contract, the rules and regulations of said agency of the United States Government shall supersede and take precedence over such portion or portions of this act in conflict or inconsistent therewith, it being the intent of the Legislature to secure all of the benefits available to the people of the State of Oklahoma from federally assisted programs. **(61-136)**

Section 993. Termination of Contract After Lapse of Work Performance.

Any contract which has been bid under the provisions of the Public Competitive Bidding Act, Section 101 et seq. of Title 61 of the Oklahoma Statutes, and on which no work has been performed and no formal claim or litigation has been pending within the last twenty-four (24) months shall be terminated by the public agency which awarded the contract. After termination, the public agency shall determine the amount of any final payment due to the contractor and shall make such payment to the contractor at the contractor's last-known address, or if the public agency is unable to locate the contractor, the amount due shall be held in a separate account by the State Treasurer in the name of the contractor. Termination of the contract and payment to the contractor or deposit of the funds due to the contractor as determined by the public agency shall release the public agency from any further liability to the contractor or surety company. Any such funds held by the State Treasurer for the contractor which are not claimed by the contractor within

thirty-six (36) months from the date of deposit with the State Treasurer shall be deposited in the General Revenue Fund and the state shall have no further liability on the project to the contractor or surety company. **(61-137)**

Section 994. Fair Pay for Construction Act.

This act shall be known and may be cited as the "Fair Pay for Construction Act". **(61-221)**

Section 995. Definitions.

As used in the Fair Pay for Construction Act:

1. "Construction contract" means a written contract or subcontract awarded by an owner or contracting entity for the purpose of making any public improvements or constructing any public building or making repairs to or performing maintenance on the same;

2. "Material supplier" means any entity that supplies materials, services, or equipment to be used in conjunction with the performance of work on a construction contract;

3. "Prime contractor" means any entity that has a direct contract with an owner to perform work under a construction contract;

4. "Owner" means any state government entity, municipality, township, public trust or an instrumentality of a state government entity, municipality, township or public trust in this state, or any entity designated by the owner to act on the owner's behalf, that requests work to be performed by a contractor under a construction contract;

5. "Proper invoice" means a request for payment or partial payment based on work performed on a construction contract;

6. "Retainage" means the difference between a gross proper invoice amount on a construction contract and the amount paid on said contract;

7. "Subcontractor" means any entity that has a direct contract with a prime contractor to perform a portion of the work under a construction contract; and

8. "Sub-subcontractor" means any entity that has a direct contract with another subcontractor to perform a portion of the work under a construction contract. **(61-222)**

Section 996. Payments to Contractor.

A. On all construction contracts exceeding Twenty-five Thousand Dollars ($25,000.00) in value an owner shall make progress payments to the prime contractor for work performed and materials properly stored, within thirty (30) calendar days after a proper invoice is submitted to the owner or a representative designated by the owner.

B. An owner or entity designated by the owner, may not reduce a proper invoice of a prime contractor without detailing and forwarding to the prime contractor, within fourteen (14) calendar days of receipt of the proper invoice, the reasons for reduction. The reduction may not be more than an amount that is reasonable to correct the work, as set forth in writing.

C. If a contracting entity has had their proper invoice reduced by another entity all other affected entities having a construction contract with the contracting entity shall be notified within seven (7) calendar days. Except as affected by a prior reduction, a prime contractor or subcontractor may not reduce the proper invoice of another subcontractor, sub-subcontractor, or material supplier without detailing and forwarding to the subcontractor, sub-subcontractor, or material supplier, within seven (7) calendar days of receipt of the proper invoice, the reasons for reduction. A prime contractor, subcontractor, or sub-subcontractor may also reduce a payment of a contracted party from a previous proper invoice. Any such reductions may not be more than an amount that is reasonable to correct the reasons for reduction, as set forth in writing. Any prime contractor, subcontractor or sub-subcontractor may be exempt from notification if the reduction is less than one percent (1%) of its net proper invoice or is due to mathematical errors. **(61-223)**

Section 997. Payments to Subcontractor.

A. If a subcontractor or material supplier has performed in accordance with the provisions of a construction contract, the prime contractor shall make payment to the subcontractor or material supplier no later than ten (10) calendar days after the prime contractor receives its corresponding payment for the work performed.

B. If a sub-subcontractor or material supplier has performed in accordance with the provisions of a construction contract, the sub-subcontractor or material supplier shall be entitled to receive payment no later than seven (7) calendar days after subcontractor receives its corresponding payment for the work performed. **(61-224)**

Section 998. Suspension of Performance.

A. Any prime contractor that performs work under a construction contract may suspend performance of the work or may terminate a construction contract if the prime contractor is not properly paid within forty-nine (49) calendar days of the date that the corresponding proper invoice is submitted. Written notice must be received by the owner at least seven (7) calendar days before any such intended suspension or termination.

B. A prime contractor or any entity that suspends performance due to the suspension of a prime contractor, is not required to furnish further performance until such entity is paid for the full amount, less retainage, of work performed, material supplied, or services rendered, together with any costs incurred for demobilization, mobilization and other costs attributable to delay of the work resulting from the shutdown and start-up of a project.

C. Any entity that suspends performance of the work or terminates a construction contract for nonpayment under this act shall not be held in breach of the construction contract.

D. If the owner delays in making payments to the prime contractor, any agreed-upon schedule or completion date and their resulting penalties, damages, bonuses, or rewards shall be extended by the same amount of calendar days that payments were late.

E. If a payment to a prime contractor is received later than as specified in this act, that prime contractor shall be entitled to receive interest pursuant to Section 41.4b of Title 62 of the Oklahoma Statutes. If the prime contractor has already paid a subcontractor, then no interest is due and owing to the subcontractor. If interest is paid to a prime contractor as provided herein, then any subsequent timely payment made to a subcontractor shall bear interest at the same rate paid to the prime contractor. If a prime contractor fails to timely pay a subcontractor, such payment to a subcontractor shall bear interest at the rate of one and one-half percent (1 ½%) per month. **(61-225)**

Section 999. Retainage.

A. A construction contract may include a provision for the retainage of a portion of payment due. Such retainage is not to exceed five percent (5%) of the amount of the payment due.

B. A subcontract may include a provision for the retainage of a portion of payment due. Such retainage is not to exceed five percent (5%) of the amount of the payment due.

C. No later than twenty-one (21) calendar days after a certificate of substantial completion is issued for the project or separate usable phase of the project and upon adequate performance of the prime contractor and with approval of any applicable surety, retainage shall be released by the owner to the prime contractor less an amount no greater than one hundred fifty percent (150%) of the estimated costs to correct any incomplete or defective work as identified, itemized, and attached to the certificate of substantial completion. All remaining funds shall be released as each deficiency is satisfactorily completed. The prime contractor shall release within ten (10) calendar days of receipt, the share of those funds that have been withheld from other entities. All other entities shall release within seven (7) calendar days of receipt, the share of those funds that have been withheld from other entities. **(61-226)**

Section 1000. Exceptions and Public Policy.

A. 1. This act shall not apply to:

a. highway construction,

b. railroad construction, or

c. turnpike construction.

2. Except as the following may be a portion of a construction contract as defined in Section 2 of this act, this act shall not apply to:

a. roads,

b. bridges,

c. utilities,

d. traffic control,

e. drainage construction,

f. sanitary sewer construction, or

g. waterline construction.

3. This act shall not apply to any contract relating to a single-, two-, three-, or four-family dwelling.

B. The following are against the public policy of this state and are void and unenforceable:

1. A provision, covenant, clause or understanding in, collateral to or affecting a construction contract that makes the contract subject to the laws of another state or that requires any litigation, arbitration or other dispute resolution proceeding arising from the contract to be conducted in another state; and

2. A provision, covenant, clause or understanding in, collateral to or affecting a construction contract that disallows or alters the rights of any prime contractor, subcontractor, sub-subcontractor, or material supplier to receive and enforce any and all rights under this act. **(61-227)**

Section 1001. Sale of Nonintoxicating Beverages Within 300 Feet of Public Schools.

It shall be unlawful for any place which has received a permit or which has been licensed to sell low-point beer and which has as its main purpose the selling or serving of low-point beer for consumption on the premises to be located within three hundred (300) feet of any public or private school or church property primarily and regularly used for worship services and religious activities. The distance indicated in this section shall be measured from the nearest property line of such public or private school or church to the nearest perimeter wall of the premises of any such place which has received a permit or which has been licensed to sell low-point beer. The provisions of this section shall not apply to places which have received a permit or which have been licensed to sell low-point beer for on-premises consumption prior to the effective date of this act. If any school or church shall be established within three hundred (300) feet of any place subject to the provisions of this section after such place has received a permit or been licensed, the provisions of this section shall not be a deterrent to the renewal of such permit or license if there has not been a lapse of more than sixty (60) days. When any place subject to the provisions of this section which has a permit or license to sell low-point beer for on-premises consumption changes ownership or the operator thereof is changed, and such change results in the same type of business being conducted on the premises, the provisions of this section shall not be a deterrent to the issuance of a license or permit to the new owner or operator if he or she is otherwise qualified.

If an establishment selling low-point beer also is the holder of a mixed beverage or beer and wine license issued by the Alcoholic Beverage Laws Enforcement Commission, the establishment shall be subject to the zoning provisions of Section 3 of this act rather than the provisions of this section. **(37-163.27)**

Section 1001.1. Location of Retail Package Store or Bar.

A. It shall be unlawful for any mixed beverage establishment, beer and wine establishment, or bottle club which has been licensed by the Alcoholic Beverage Laws Enforcement Commission and which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises, or retail package store, to be located within three hundred (300) feet of any public or private school or church property primarily and regularly used for worship services and religious activities. The distance indicated in this section shall be measured from the nearest property line of such public or private school or church to the nearest perimeter wall of the premises of any such mixed beverage establishment, beer and wine establishment, bottle club, or retail package store which has been licensed to sell alcoholic beverages. The provisions of this section shall not apply to mixed beverage establishments, beer and wine establishments, or bottle clubs, which have been licensed to sell alcoholic beverages for on-premises consumption or retail package stores prior to November 1, 2000; provided, if at the time of application for license renewal the licensed location has not been in actual operation for a continuous period of more than sixty (60) days, the license shall not be renewed. If any school or church shall be established within three hundred (300) feet of any retail package store, mixed beverage establishment, beer and wine establishment, or bottle club subject to the provisions of this section after such retail package store, mixed beverage establishment, beer and wine establishment, or bottle club has been licensed, the provisions of this section shall not be a deterrent to the renewal of such license if there has not been a lapse of more than sixty (60) days. When any mixed beverage establishment, beer and wine establishment, or bottle club subject to the provisions of this section which has a license to sell alcoholic beverages for on-premises consumption or retail package store changes ownership or the operator thereof is changed and such change of ownership results in the same type of business being conducted on the premises, the provisions of this section shall not be a deterrent to the issuance of a license to the new owner or operator if he or she is otherwise qualified.

B. 1. Any interested party may protest the application for or granting of a license for a retail package store, or for a mixed beverage establishment, beer and wine establishment, or bottle club which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises, based on an alleged violation of this section. To be considered by the ABLE Commission, the protest must:

a. be submitted in writing,

b. be signed by the person protesting,

c. contain the mailing address and address of residence, if different from the mailing address of the protester,

d. contain the title of the person signing the protest, if the person is acting in an official capacity as a church or school official, and

e. contain a concise statement explaining why the application is being protested.

2. Within thirty (30) days of the date of receipt of a written protest, the ABLE Commission shall conduct a hearing on the protest if the protest meets the requirements of paragraph 1 of this subsection.

3. As used in this subsection, "interested party" means:

a. a parent or legal guardian whose child or children attend the church or school which is alleged to be closer to the mixed beverage establishment or bottle club which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises, or retail package store, than is allowed by this section,

b. an official of a church which is alleged to be closer to the mixed beverage establishment or bottle club which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises, or retail package store, than is allowed by this section, or

c. an official of a school which is alleged to be closer to the mixed beverage establishment or bottle club which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises, or retail package store, than is allowed by this section. **(37-518.3)**

Section 1002. Distribution of Tobacco Samples Prohibited.

A. It shall be unlawful for any person or retailer to distribute tobacco products or product samples to any person under eighteen (18) years of age.

B. No person shall distribute tobacco products or product samples in or on any public street, sidewalk, or park that is within three hundred (300) feet of any playground, school, or other facility when the facility is being used primarily by persons under eighteen (18) years of age.

C. When a person violates any provision of subsection A or B of this section, the Alcoholic Beverage Laws Enforcement (ABLE) Commission shall impose an administrative fine of:

1. Not more than One Hundred Dollars ($100.00) for the first offense;

2. Not more than Two Hundred Dollars ($200.00) for the second offense; and

3. Not more than Three Hundred Dollars ($300.00) for a third or subsequent offense.

D. Upon failure of any person to pay an administrative fine within ninety (90) days of the assessment of the fine, the ABLE Commission shall notify the Department of Public Safety, and the Department shall suspend or not issue a driver license to the person until proof of payment has been furnished to the Department of Public Safety.

E. Cities and towns may enact and municipal police officers may enforce ordinances prohibiting and penalizing conduct under provisions of this section, but the provisions of municipal ordinances shall be the same as provided for in this section, and the penalty provisions under such ordinances shall not be more stringent than those of this section. **(37-600.8)**

Section 1003. Correctional Facilities Prohibited Near Schools.

A. Except as otherwise authorized by Section 183 of Title 73 of the Oklahoma Statutes, before any correctional facility other than an inmate work center as authorized in subsection B of this section or an inmate drug offender work camp, whether within the Department of Corrections or within any other state agency, may be created or any construction performed which may significantly increase, extend or expand the present facility, such creation or construction shall be approved by the Legislature. Correctional facilities owned or operated by private prison contractors shall not be deemed to be within the Department of Corrections or other state agency.

B. The Department of Corrections is hereby authorized to establish inmate work centers, not to exceed one hundred (100) inmates, in locations where a need for labor to conduct public work projects is determined. The Department shall select the inmate work center locations based on objective comparisons of interested communities in accordance with procedures and criteria established by the Department of Corrections. The procedures, selection criteria and decision case analysis shall be made available to the public upon request.

C. No state, county or municipal correctional facility including any inmate work center, inmate drug offender work camp, inmate halfway house, inmate transitional living center and any other place where state, county or municipal inmates are housed shall be located within one thousand (1,000) feet of any public or private elementary or secondary school nor within two thousand five hundred (2,500) feet of any state training school. The provisions of this subsection shall not apply to any inmate work center, inmate drug offender work camp, inmate halfway house, inmate transitional living center and any other place where state, county or municipal inmates are housed established prior to May 20, 1994. Provided , that the provisions of this subsection shall not apply to state, county, or municipal correctional facilities that are granted permission to operate within the areas restricted by this subsection by a majority vote of the following entities:

1. The district board of education of each school district with an affected school; and

2. The governing body of each affected private school.

D. In any county with a population of two hundred fifty thousand (250,000) or more, as determined by the latest Federal Decennial Census, the Department of Corrections shall not cause, permit or require any inmate in the custody

of the Department or cause, permit or require any offender under the supervision of the Department to enter, remain or be present in any Department of Corrections facility located within one thousand (1,000) feet of a private or public elementary or secondary school, or on the grounds of such a facility, for any activities involving or relating to processing, training, instructing, interviewing, counseling, reporting, conferring, imposing discipline, reviewing or adjudicating or any correctional function requiring or permitting the presence of the offender, except offenders may be employed in construction, maintenance or janitorial activities in or on the structures or grounds while under supervision of a correctional employee. The provisions of this subsection shall not apply to any facility established or acquired by the Department of Corrections prior to May 20, 1994. **(57-563)**

The proper method of measurement is from property line to property line. School district was entitled to an injunction preventing operation of halfway house within 1,000 feet of a school. *Western Heights Ind. Sch. Dist. No. I-41 v. Avalon Retirement Centers, L.L.C.*, 2001 OK CIV APP 140, 37 P.3d 962

A county may not locate an annex to its jail within 1,000 feet of an elementary school even though the jail exists within that distance and was in operation prior to May 20, 1994. However, the school board may grant permission for the county to build a detached annex to the county jail even though the annex will be located within 1,000 feet of the school district. *March 3, 1999 (AG Op. No. 98-47)*

Section 1004. Prison Facilities Prohibited Near Schools.

A. The location of any prison facility which is not operated by the Department of Corrections, a county, or a city:

1. Shall be subject to the nondiscriminatory zoning ordinances of the town or city in which located; and

2. Is specifically prohibited within one (1) mile of any public or private elementary or secondary school. The provision of this paragraph shall not apply to:

a. any private medium secure juvenile facility which was established and housed juveniles prior to July 1, 1999,

b. any prison facility which was used as a prison facility prior to the establishment of a public or private elementary or secondary school within the one-mile radius of the prison facility as long as the prison facility remains in continuous use as a prison,

c. any prison or juvenile facility established within the prohibited distance from a private elementary or secondary school prior to May 20, 1994, or within the prohibited distance from a public elementary or secondary school prior to July 1, 1987,

d. any other juvenile facilities, or

e. a correctional facility not operated by the Department of Corrections that is granted permission to operate within the areas restricted by this subsection by a majority vote of the following entities:

(1) the district board of education of each school district with an affected school, and

(2) the equivalent governing body of each affected private school.

B. The distance indicated in this section shall be measured from the nearest property line of the school to the nearest property line of the prison facility.

C. 1. Prior to the establishment of any prison facility which is not operated by the Department of Corrections, a private prison contractor shall obtain written authorization to establish the facility from the governing body of any municipality in which the facility is to be located, or if the facility is not to be located within the incorporated limits of a municipality, from the board of county commissioners of the county in which the facility is to be located.

2. The authorization shall be submitted to the Board of Corrections before any contract between the Department of Corrections and the private prison contractor is awarded.

D. The term "prison or prison facility" means any facility operated by a private prison contractor as such term is defined in Section 502 of this title. **(57-563.1)**

Section 1005. Alcohol and Drug Treatment Facilities Prohibited Near Schools.

For the location of any treatment facility, transitional living center or halfway house as defined in Section 3-403 of Title 43A of the Oklahoma Statutes which is operated pursuant to a license issued by the State Commissioner of Health for alcohol and drug abuse prevention, training, treatment and rehabilitation, the state, a county, or a municipality shall be subject to the nondiscriminatory zoning ordinances of the municipality in which located, and the location of such facility is specifically prohibited within one thousand (1,000) feet of any public or private elementary or secondary school. Provided, that if any public or private elementary or secondary school shall be established within the prohibited distance from any such facility after such facility has been in use as a treatment facility, transitional living center or halfway house, this shall not be a bar to the continued use of the facility as designated so long as it remains in continuous use as designated. The distance indicated in this section shall be measured from the nearest property line of the school to the nearest property line of the treatment facility, transitional living center or halfway house. The provisions of this section shall not apply to any treatment facility, transitional living center or halfway house established prior to the effective date of this act. **(43A-3-417.1)**

Section 1005.1. Residence of Sex Offenders.

A. It is unlawful for any person registered pursuant to the Sex Offenders Registration Act to reside, either temporarily or permanently, within a two-thousand-foot radius of any public or private school site, educational institution, property or campsite used by an organization whose primary purpose is working with children, a playground or park that is established, operated or supported in whole or in part by city, county, state, federal or tribal government, or licensed child care center as defined by the Department of Human Services. Establishment of a day care center or park in the vicinity of the residence of a registered sex offender will not require the relocation of the sex offender or the sale of the property. On the effective date of this act, the distance indicated in this section shall be measured from the nearest property line of the residence of the person to the nearest property line of the public or private school site, educational institution, property or campsite used by an organization whose primary purpose is working with children, playground, park, or licensed child care facility; provided, any nonprofit organization established and housing sex offenders prior to the effective date of this provision shall be allowed to continue its operation.

B. Nothing in this provision shall require any person to sell or otherwise dispose of any real estate or home acquired or owned prior to the conviction of the person as a sex offender.

C. The provisions of this section shall not apply to any registered sex offender residing in a hospital or other facility certified or licensed by the State of Oklahoma to provide medical services.

D. Any person willfully violating the provisions of this section by intentionally moving into any neighborhood or to any real estate or home within the prohibited distance shall, upon conviction, be guilty of a felony punishable by a fine not to exceed Three Thousand Dollars ($3,000.00), or by imprisonment in the custody of the Department of Corrections for a term of not less than one (1) year nor more than three (3) years, or by both such fine and imprisonment. Any person convicted of a second or subsequent violation of this section shall be punished by a fine not to exceed Three Thousand Dollars ($3,000.00), or by imprisonment in the custody of the Department of Corrections for a term of not less than three (3) years, or by both such fine and imprisonment. **(57-590)**

[1] O.S.L. 2006, c. 284, emergency effective June 7, 2006.

Sex offenders are prohibited from residing within a 2000 foot radius of a school or other educational institution. Whether a person is residing at a prohibited place is a question of fact to be determined on a case by case basis. *October 10, 2005 (AG Op. No. 05-36)*

A school or educational institution, or other party with standing, may seek to enjoin a registered sex offender from residing within a 2,000-foot radius of a school or educational institution. The civil provision may be applied retrospectively to persons who lived in a residence and/or were registered sex offenders prior to November 1, 2003. The criminal provision may not be applied to a person who moved into a prohibited area prior to November 1, 2003. *March 31, 2005 (AG Op. No. 05-11)*

Section 1005.2. Body Piercing and Tattooing

* * * * *

C. 1. The State Department of Health shall not grant or issue a license to a body piercing or tattoo operator if the place of business of the body piercing or tattoo operator is within one thousand (1,000) feet of a church, school, or playground.

2. The provisions of this subsection shall not apply to the renewal of licenses or to new applications for locations where body piercing or tattoo operators are licensed at the time the application is filed with the Department.

3. As used in this subsection:

* * * * *

b. "school" means an establishment, other than a private dwelling, where the usual processes of education are usually conducted, and

c. "playground" means a place, other than grounds at a private dwelling, that is provided by the public or members of a community for recreation. **(21-842.3)**

* * * * *

Section 1005.3. Dog Kennels.

A. Upon the effective date of this act, no dog kennel shall be located within two thousand five hundred (2,500) feet of a public or private school or licensed day care facility in a municipality having a population of more than three hundred thousand (300,000). Provided, this prohibition shall not apply to a dog kennel that was lawfully in operation and in full compliance with all licensing, permitting and zoning requirements applicable to said kennel prior to the effective date of this act.

B. Upon the effective date of this act, no public officer or employee shall issue any type of license, permit, approval or consent for a dog kennel to be located within two thousand five hundred (2,500) feet of a public or private school or licensed day care facility in a municipality having a population of more than three hundred thousand (300,000).

C. Applications for a dog kennel license or for any governmental permit, approval or consent needed to authorize the lawful operation of a dog kennel that are pending on the effective date of this act shall be subject to the prohibitions set forth in subsections A and B of this section.

D. The provisions of subsections A and B of this section may be enforced by any public officer within whose jurisdiction a noncompliant dog kennel is located or by any other person aggrieved in any way by noncompliance with said provisions. Enforcement action may include a civil suit for an injunction filed in the district court in the county where a noncompliant dog kennel is located.

E. Any municipality is hereby authorized to enact an ordinance consistent with the provisions of this section and to enforce said ordinance by prosecution of violations in the municipal court, as provided by law.

F. For the purposes of this section, the term "dog kennel" means any place other than a federal, state or municipal facility, veterinary hospital or medical research institute, where more than four dogs beyond the age of six (6) months are kept, harbored, boarded, sheltered or bred. **(11-22-115.1)**

Section 1006. Oklahoma Farm to School Program.

This act shall be known and may be cited as the "Oklahoma Farm to School Program Act". **(2-5-60.1)**

Section 1007. Intent of Act.

A. The Legislature recognizes that:

1. Farm to School Programs link schools and Oklahoma farms in order to provide schools with fresh and minimally processed farm commodities for inclusion in school meals and snacks, to help children develop healthy eating habits, and to improve Oklahoma farmers' incomes and direct access to markets; and

2. The benefits of Farm to School Programs often include activities that provide students with hands-on learning opportunities, such as farm visits, cooking demonstrations, and school gardening and composting programs, and integrate nutrition and agriculture education into school curricula.

B. It is the intent of the Legislature that school districts encourage the implementation of the Oklahoma Farm to School Program, which will emphasize the purchase of locally and regionally produced foods in order to improve child nutrition and strengthen local and regional farm economies.

C. A successful statewide Farm to School Program will require the resources, expertise, and collaboration of a variety of state agencies, including the State Department of Education, the State Department of Health, the Oklahoma Department of Agriculture, Food and Forestry, the Department of Human Services, and a nonprofit agency that has experience in Farm to School Programs. **(2-5-60.2)**

Section 1008. Director and Staff.

A. There is hereby created the Oklahoma Farm to School Program within the Oklahoma Department of Agriculture, Food, and Forestry. The Department shall employ a director to administer and monitor the programs and activities related to the Oklahoma Farm to School Program with the advice of and guidance of a nonprofit food policy council.

B. The following agencies shall make staff available to the Oklahoma Farm to School Program for the purpose of providing professional consultation and staff support to assist the implementation of this act:

1. Oklahoma Department of Agriculture, Food , and Forestry;

2. State Department of Health;

3. State Department of Education; and

4. Department of Human Services. **(2-5-60.3)**

Section 1009. Duties of Director.

The duties of the director shall include, but not be limited to:

1. Identifying and promoting the critical components of individual Farm to School Programs and advising the agencies on needed actions and strategies to implement the Oklahoma Farm to School Program;

2. Establishing a partnership with public and nonprofit sources to implement a public engagement campaign and establish a structure to facilitate communication between farmers and school districts;

3. Providing leadership at the state level to encourage school districts to develop and improve school nutrition plans using locally grown farm-fresh products;

4. Conducting workshops, training sessions, and technical assistance to school food services directors, personnel, farmers, and produce distributors and processors regarding the demand for and the availability of Oklahoma farm products; and

5. Seeking grants from private donations and other funding sources. **(2-5-60.4)**

Section 1010. Farm to School Program - Website.

A. The Oklahoma Department of Agriculture, Food, and Forestry shall establish a Farm to School Program web site for the State of Oklahoma. A direct link to the Farm to School Program web site shall be maintained on the home pages of the State of Oklahoma, the State Department of Education, and the Oklahoma Department of Agriculture, Food, and Forestry.

B. The purpose of the Farm to School Program web sited shall be to assist schools and farmers in the coordination of fresh food procurement. **(2-5-60.5)**

Section 1010.1. Farm to School Program - Rules.

The Oklahoma Department of Agriculture, Food, and Forestry is authorized to promulgate rules as necessary to carry out the provisions of this act. **(2-5-60.6)**

Section 1011. Motor Vehicles - Technology Center Schools - Area School Districts - Agreements for Use.

Any person, company, corporation, partnership, co-partnership, trust or other business entity desiring to do so may enter into a written lease or loan agreement with the board of education of any technology center school or technology center school district covering the lease or loan to such board of education of any motor vehicle for use by such technology center school or area school district in connection with any training or maintenance or other similar educational program, or in administering any such program operated by or under the direction of such board of education. Such written agreement shall specify the monetary consideration therefor, if any; shall provide that ownership of such motor vehicle shall remain in the person or business entity so furnishing same to the board of education; shall state the make, model, equipment attached, year of manufacture and manufacturer's delivery price of said motor vehicle; and the duration of the term of such lease or loan agreement. Such written agreements shall provide that upon expiration of the term set out in the agreement said motor vehicle shall be returned to the owner thereof. Such agreements shall be executed by the board of education, or an administrative officer in behalf thereof, and the owner of such motor vehicle. **(70-1210.41)**

Section 1012. Special License Plates.

Each motor vehicle furnished to the board of education of a technology center school or technology center school district in the manner and for the purposes provided for in Section 1210.41 of this title may be operated for such purposes with a special license plate attached thereto. Such special license plates shall be issued for a nominal fee of One Dollar ($1.00) in event the vehicle is loaned but such special license plates may be used only while such motor vehicle is in the possession or under the control of the board of education, and it shall not be necessary for the owner of such motor vehicle to pay the vehicle excise tax thereon during the time same is in the possession of such board of education and used for the purposes stated in Section 1210.41 of this title. **(70-1210.42)**

Section 1013. Insurance When Vehicle Is Loaned.

In event the vehicle is loaned the board of education shall provide insurance, by securing a policy from an insurance company authorized to do business in this state, with limits of not less than Five Thousand Dollars ($5,000.00) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of not less than Ten Thousand Dollars ($10,000.00) because of bodily injury to or death of two or more persons in any one accident, and if the accident has resulted in injury to or destruction of property to a limit of not less than Five Thousand Dollars ($5,000.00) because of injury to or destruction of property of others in any one accident, to cover such motor vehicle and its use while in its possession or control, and the owner so furnishing same shall not be liable for any personal injury or property damage resulting from the use of any such motor vehicle while in the possession of the board of education, its officials, employees or students.

The use of such motor vehicles for the purposes stated in Section 1210.41 of this title by technology center schools or technology center school districts is declared to be a public governmental function and no action for damages shall be brought against such schools or school districts or the boards of education thereof and the amount of damages, if any,

recoverable against and collectible from such insurer may be determined in an action brought against said insurance company and shall be limited to the amount provided in the insurance contract. **(70-1210.43)**

Section 1014. Unlawful Use of Vehicle Bearing Special License Plate.

It shall be unlawful for any person to operate a motor vehicle bearing a special license plate as provided for in this act on any street, road or highway in this state for any purpose other than in connection with any training or maintenance or other similar educational program or in administering such program; and upon conviction therefor such person shall be punished by a fine of not more than Fifty Dollars ($50.00). Use of a motor vehicle in a manner unauthorized herein shall create no liability of any kind upon a technology center school or technology center school district, or upon the board of education thereof. **(70-1210.44)**

Section 1015. Use of Surplus Machinery, Equipment and Motor Vehicles of County or Municipality in Technology Center Educational Programs.

The board of county commissioners of any county or the governing board of any city or town is hereby authorized, in its discretion and upon such terms, conditions and for such consideration as it deems advisable, to lease, loan, sell or donate any obsolete, surplus or unneeded machinery, equipment or motor vehicle which it may have to the board of education of any technology center school or technology center school district for use in connection with any training, maintenance or other similar educational program conducted by such board of education. Such educational programs may include, but shall not be limited to, the performance of field training projects in behalf of any county, municipality, school district or any organization not organized for profit, to provide needed training experience for the persons enrolled in such training programs. **(70-1210.45)**

Section 1016. Fee Waiver for P.O.W.'s, M.I.A.'s and Their Dependents.

A. Any current or former prisoner of war or person missing in action, as defined by the provisions of this section, and any dependent of a current or former prisoner of war or person missing in action, upon being duly accepted for enrollment into any state-supported institution of higher education of any type, or state-supported technical or vocational school, shall be allowed to obtain a bachelors degree, or certificate of completion, for so long as such former prisoner of war, person missing in action or dependent is eligible, free of general enrollment fees. Once a person qualifies as a dependent under the terms and provisions of this section, the fact of the return of the parent or the reported death of the parent will not remove the dependent from the provisions or benefits of this section.

B. For purposes of this section:

1. "Prisoner of war" and "person missing in action" means any person who was a resident of the State of Oklahoma at the time he or she entered service of the United States Armed Forces, or whose official residence is within the State of Oklahoma, and who, while serving in the United States Armed Forces has been declared to be a prisoner of war, or to be a person missing in action as established by the Secretary of Defense; and

2. "Dependent" means any child not to exceed twenty-four (24) years of age born to or adopted by a parent who served or is serving as a prisoner of war or was declared by the United States Armed Forces to be a person missing in action.

C. If federal funds are provided for general enrollment fees of said dependent, this section shall not be applicable. **(70-2281)**

Section 1017. School Bus - Overtaking and Passing - Markings.

A. The driver of a vehicle meeting or overtaking a school bus that is stopped to take on or discharge school children, and on which the red loading signals are in operation, is to stop the vehicle before it reaches the school bus and not proceed until the loading signals are deactivated and then proceed past such school bus at a speed which is reasonable and with due caution for the safety of such school children and other occupants. Any person convicted of violating the provisions of this subsection shall be punished by a fine of not less than One Hundred Dollars ($100.00).

B. Visual signals, meeting the requirements of Section 12-228 of this title, shall be actuated by the driver of said school bus whenever, but only whenever, such vehicle is stopped on the highway for the purpose of receiving or discharging school children.

C. The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway or when upon a controlled-access highway and the school bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.

D. If the driver of a school bus witnesses a violation of the provisions of subsection A of this section, within twenty-four (24) hours of the alleged offense, the driver shall report the violation, the vehicle color, license tag number, and the time and place such violation occurred to the law enforcement authority of the municipality where the violation occurred. The law enforcement authority of a municipality shall issue a letter of warning on the alleged violation to the person in whose name the vehicle is registered. The Office of the Attorney General shall provide a form letter to each municipal law enforcement agency in this state for the issuance of the warning provided for in this subsection. Such form letter shall be used by each such law enforcement agency in the exact form provided for by the Office of the Attorney General. A warning letter issued pursuant to this subsection shall not be recorded on the driving record of the person to whom such letter was issued. Issuance of a warning letter pursuant to this section shall not preclude the imposition of other penalties as provided by law. **(47-11-705)**

Section 1017.1. School Buses - Audible and Visual Signals on Vehicles.

* * * * *

B. Every school bus used for transportation of school children and every authorized emergency vehicle shall, in addition to any other equipment and distinctive markings required by this act, be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, which shall be capable of displaying to the front two alternately flashing red, or for authorized emergency vehicles, flashing red or blue lights or a combination of flashing red and blue lights located at the same level, and these lights shall have sufficient intensity to be visible at five hundred (500) feet in normal sunlight or, as an alternative, authorized emergency vehicles may use one red or blue signal lamp so located at or near the top of the vehicle which when lighted is visible for a distance of five hundred (500) feet in normal sunlight both to the front and to the rear of the vehicle.

* * * * *

D. The use of the signal equipment described herein shall impose upon drivers of other vehicles the obligation to yield right-of-way and stop as prescribed in Sections 11-405 and 11-705 of this title.

E. It shall be unlawful for any person to use a device capable of producing auditory warning signals similar to an emergency vehicle or to use audible signal equipment from a motor vehicle for the purpose of causing any other motor vehicle operator to yield right-of-way and stop, or which actually causes any other motor vehicle operator to yield the right-of-way and stop, whether intended or not. The provisions of this subsection shall not apply to vehicles of any fire department, fire patrol, law enforcement vehicles, ambulances, or other authorized emergency vehicles. **(47-12-218)**

Section 1018. School Buses - Lighting Equipment - Warning Devices.

A. The Commissioner of Public Safety and the State Board of Education are authorized to adopt standards and specifications applicable to lighting equipment on and special warning devices to be carried by school buses consistent with the provisions of this chapter, but supplemental thereto. Such standards and specifications shall correlate with and, so far as possible, conform to the specifications then current as approved by the Society of Automotive Engineers. During the time any school bus is operating, the school bus shall have its headlights activated.

B. It shall be unlawful to operate any red flashing warning signal light on any school bus except when any said school bus is stopped on a highway for the purpose of permitting school children to board or alight from said school bus.

C. It shall be unlawful to operate any red flashing warning signal light on any church bus as defined in Section 11-705.1 of this title, except when any said bus is stopped on a highway for the purpose of permitting passengers to board or alight from said bus. **(47-12-228)**

Section 1019. Converted School Buses - Color.

School buses converted for purposes other than transporting pupils to or from school shall be painted a color other than national glossy yellow. The loading lights shall be disconnected, except for buses purchased for use by religious organizations as defined in Section 1 of this act. **(47-12-102)**

Section 1019.1. Public Transit Drivers – Certain Communications Prohibited.

A. It shall be unlawful for a public transit driver to operate a motor vehicle on any street or highway within this state while using a cellular telephone or electronic communication device to write, send, or read a text-based communication while the motor vehicle is in motion.

B. Any person who violates the provisions of subsection A of this section shall, upon conviction, be guilty of a misdemeanor punishable by a fine of Five Hundred Dollars ($500.00).

C. As used in this section:

1. "Cellular telephone" means an analog or digital wireless telephone authorized by the Federal Communications Commission to operate in the frequency bandwidth reserved for cellular telephones;

2. "Electronic communication device" means an electronic device that permits the user to manually transmit a communication of written text by means other than through an oral transfer or wire communication. This term does not include a voice-activated global positioning or navigation system that is affixed to a motor vehicle; and

3. "Public transit driver" means:

a. any operator of a public transit vehicle owned and operated by the State of Oklahoma, any public trust authority, county, municipality, town or city within this state,

b. any operator of a school bus or multi-passenger motor vehicle owned and approved to operate by the State Department of Education or any school district within this state, or

c. any operator, conductor or driver of a locomotive engine, railway car or train of cars.

D. This act shall not apply to railroads and railroad operating employees regulated by the Federal Railroad Administration. **(47-11-901c)**

Section 1020. School Buses and Other Vehicles - Obstruction to Driver's View and Driving Mechanism - Overcrowding.

(a) No person shall drive a vehicle when it is so loaded, or when there are in the front seat such number of persons, exceeding three (3), as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

(b) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides or to interfere with his control over the driving mechanism of the vehicle

(c) No school bus shall be operated on the streets or highways in this State when loaded with passengers in excess of the number for which such bus is designed to carry. The number of passengers determined by the local school board which the bus is designed to carry shall be posted in a conspicuous place on the bus. **(47-11-1104)**

Section 1021. Transportation of School Children Exempt from Motor Carrier Regulation Act.

As used in the Motor Carrier Act of 1995:

* * * * *

6. "Motor carrier of persons or property" means any person, except a carrier of household goods or used emigrant movables, operating upon any public highway for the transportation of passengers or property for compensation or for hire or for commercial purposes, and not operating exclusively within the limits of an incorporated city or town within this state. Provided, the provisions of the Motor Carrier Act of 1995 shall not apply to * * * any person or governmental authority furnishing transportation for school children to and from public schools or to and from public-school-related extracurricular activities under contract with, and sponsored by, a public school board; provided, that motor vehicles and equipment operated for the purposes shall qualify in all respects for the transportation of school children under the Oklahoma School Code and the rules of the State Board of Education adopted pursuant thereto. Provided, this exemption shall apply only to such vehicles while they are being used for such transportation. * * * **(47-240.3)**

Section 1022. Gasoline Tax - Schools Exempted.

A. Gasoline, diesel fuel or special fuels used solely and exclusively in district-owned public school vehicles or FFA and 4-H Club trucks for the purpose of legally transporting public school children shall be exempt from all state taxes; and gasoline, diesel fuel or special fuels purchased by any school district for use exclusively in school buses leased or hired for the purpose of legally transporting public school children, or in the operation of vehicles used in driver training, shall also be exempt from all state taxes. * * * **(68-527)**

Section 1022.1. Motor Fuel Tax Code - Schools Exempted.

Subject to the procedural requirements and conditions set out in Section 10 through 17 of this act, the following are exempt from the tax imposed by Section 4 of this act on motor fuel: * * *

6. Motor fuel used solely and exclusively in district-owned public school vehicles or FFA and 4-H Club trucks for the purpose of legally transporting public school children, and motor fuel purchased by any school district for use exclusively in school buses leased or hired for the purpose of legally transporting public school children, or in the operation of vehicles used in driver training; * * *. **(68-500.10)**

Section 1023. Vehicles Loaned by New Car Dealers for Driver Education and Training Programs - Special Driver Education Training License Plate - Insurance.

(a) Each new motor vehicle loaned and furnished free of charge by a licensed Oklahoma new car dealer to a school district or institution of higher learning in Oklahoma to be used exclusively for instructing pupils or used in the instruction of teachers in the driver education and training program, including any vehicle used exclusively for vocational agriculture purposes, conducted by such school district or institution of higher learning may be operated for such purpose with a special driver education training license plate attached thereto. Such license plates shall be issued without any charge therefor to school districts or institutions of higher learning from the central office of the Oklahoma Tax Commission upon application forms prescribed and furnished by the Commission, and such plates shall be accounted for by the school district or institution of higher learning to which issued, as the Tax Commission may require. Said special license plates shall be used only on such motor vehicles furnished free of charge by dealers and used in the driver education program, including any vehicle used exclusively for vocational agriculture purposes, and for no other purpose except for garaging and safekeeping of said motor vehicle.

(b) The school district or institution of higher learning may provide adequate insurance to cover such motor vehicle and its use for such purposes, and the dealer owning and so furnishing same shall not be liable for any personal injury or property damage resulting from the use of any such motor vehicle while in the possession of the school district or institution of higher learning, its officials, employees or students.

The use of such motor vehicles for said purposes by school districts or institutions of higher learning is declared to be a public governmental function and no action for damages shall be brought against the school districts or institutions of higher learning and the amount of damages, if any, recoverable against the insurer and collectible from

such insurer shall be limited to the amount provided in the insurance contract. Provided that the provisions hereof shall not be construed as creating any liability whatever against any school district or institution of higher learning which has not provided said insurance.

(c) Each new motor vehicle loaned and furnished free of charge by a licensed Oklahoma new car dealer to a parochial, private or nonpublic school in Oklahoma to be used exclusively for instructing pupils in the driver education and training program may be operated for such purpose with a special private driver education training license plate attached thereto. The Oklahoma Tax Commission shall issue said license upon payment of a fee of Ten Dollars ($10.00) per year. The ten-dollar fee shall be in addition to other fees required by law, excluding the annual license fee established pursuant to the Oklahoma Vehicle License and Registration Act. The revenue collected shall be apportioned as provided by law for such motor vehicles. The Oklahoma Tax Commission shall prescribe and furnish application forms for such purpose and shall promulgate rules and regulations for the issuance and revocation of said license. The motor vehicles provided for in this section shall not be subject to the provisions of Sections 1152 through 1155 of Title 47 of the Oklahoma Statutes. **(70-1210.34)**

Section 1024. Unlawful Use of Vehicle Bearing Driver Education Training Tag.

It shall be unlawful for any person to operate a motor vehicle bearing a "Driver Education Training" tag or "Private Driver Education Training" tag as provided for in Section 1210.34 of this title on any street, road or highway in this state for any purpose other than instructing pupils or used in the instruction of teachers in driver education and training; and upon conviction therefore such person shall be punished by a fine of not more than Fifty Dollars ($50.00). Use of a driver education motor vehicle in a manner unauthorized herein shall create no liability of any kind upon a school district or institution of higher learning. **(70-1210.35)**

Section 1025. Special License Plate, Display of Name on Vehicle.

The Oklahoma Tax Commission is hereby authorized to design and issue appropriate official special license plates as provided by this section.

Special license plates shall not be transferred to any other person but shall be removed from the vehicle upon transfer of ownership and retained. The special license plate may then be used on another vehicle but only after such other vehicle has been registered for the current year with a motor license agent.

Special license plates shall be renewed each year by the Tax Commission or a motor license agent. The Tax Commission shall annually notify by mail all persons issued special license plates. The notice shall contain all necessary information and shall contain instructions for the renewal procedure upon presentation to a motor license agent or the Tax Commission. The license plates shall be issued on a staggered system except for legislative and motorcycle license plates and vintage decals.

If fewer than fifty of any type of special license plates authorized prior to January 1, 2000, are issued prior to January 1, 2005, or, for any type of special license plate authorized after January 1, 2000, within five (5) years after first being offered, the Tax Commission shall discontinue issuance of that type of special license plate.

Special license plates shall be designed in such a manner as to identify the use and ownership of the vehicle. The special license plates provided by this section are as follows:

1. Political Subdivision Plates - such plates shall be designed for any vehicle owned by any political subdivision of this state and shall be registered for Five Dollars ($5.00), after having obtained proper Oklahoma certificate of title. Such political subdivisions shall file an annual report with the Tax Commission stating the agency where such vehicle is located. Such license plates shall be permanent in nature and designed in such a manner as to remain with the vehicle for the duration of the life span of the vehicle or until the title is transferred to an owner who is not a political subdivision;

* * * * *

66. Support Education License Plates – such plates shall be designed, subject to criteria to be presented to the Tax Commission by the State Department of Education in consultation with the Oklahoma Arts Council, and issued to any person wishing to demonstrate support for education in this state. The fee for such plate shall be Twenty-five Dollars

($25.00) and shall be in addition to all other registration fees required by the Oklahoma Vehicle License and Registration Act. Two Dollars ($2.00) of the twenty-five-dollar fee shall be deposited into the Oklahoma Tax Commission Reimbursement Fund. The remaining Twenty-three Dollars ($23.00) shall be apportioned as follows:

a. five percent (5%) shall be deposited to the Education Reform Revolving Fund,

b. five percent (5%) shall be deposited to the Higher Education Revolving Fund,

c. five percent (5%) shall be deposited to the State Vocational-Technical Fund, and

d. eighty-five percent (85%) of the fee shall be deposited to the Teachers' Retirement Benefit Fund as set forth in Section 17-108 of Title 70 of the Oklahoma Statutes. However, when the Teachers' Retirement Benefit Fund attains a seventy percent (70%) funded ratio based on an annual actuarial valuation as required by law, Twenty-three Dollars ($23.00) of the fee shall be apportioned equally pursuant to subparagraphs a, b and c of this paragraph;

* * * * *

Notwithstanding the provisions of Section 1104 of this title, Two Dollars ($2.00) of each special tag fee shall be deposited to the Oklahoma Tax Commission Reimbursement Fund to be used for the administration of the Oklahoma Vehicle License and Registration Act.

Use of any vehicle possessing a special license plate for any purpose not specified in this section shall be grounds for revocation of the special license plate and registration certificate. **(47-1136)**

Section 1026. Definitions.

As used in the Oklahoma Alternative Fuels Conversion Act:

1. "Alternative fuels" means fuels which result in comparably lower emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide, or particulates or any combination thereof and includes compressed natural gas, liquefied petroleum gas, liquefied natural gas, ethanol, methanol, "—85" which is a mixture of methanol and gasoline containing at least eighty-five percent (85%) methanol, electricity, biodiesel, and "B2O" which is a mixture of biodiesel and diesel fuel containing at least twenty percent (20%) biodiesel;

2. "Charge station" means the physical device that provides a connection from a power source to an electric vehicle as defined by the Electric Vehicle Association of America, the Electric Power Research Institute, and the Society of Automotive Engineers. All charge stations shall comply with the National Electric Code. Inductive connectors and conductive connectors shall comply with the guidelines of the Society of Automotive Engineers;

3. "CNG" means compressed natural gas;

4. "CNG conversion kit" means the equipment installed to modify a motor vehicle which is propelled by gasoline or diesel fuel so that the vehicle may be propelled by compressed natural gas;

5. "Diesel fuel" means diesel engine fuel, and all other liquids suitable for the generation of power for the propulsion of motor vehicles except gasoline;

6. "Fill station" means the property which is directly related to the delivery of compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol, "—85" which is a mixture of methanol and gasoline containing at least eighty-five percent (85%) methanol, biodiesel, or "B2O" which is a mixture of biodiesel and diesel fuel containing at least twenty percent (20%) biodiesel into the fuel tank of a motor vehicle propelled by such fuel including the compression equipment and storage vessels for such fuel at the point where such fuel is delivered;

7. "Gallon" means the quantity of fluid or liquid at a temperature of sixty degrees (60°) Fahrenheit necessary to completely fill a United States standard gallon liquid measure;

8. "Gasoline" means the same as motor fuel and means every liquid petroleum product, or any combination thereof, other than solvents as herein defined, having an A.P.I. gravity of forty-six degrees (46°) or above at a

temperature of sixty degrees (60°) Fahrenheit and at atmospheric pressure, and includes drip, casinghead or natural gasoline. The term gasoline also includes any liquid of less than forty-six degrees (46°) A.P.I. gravity at a temperature of sixty degrees (60°) Fahrenheit compounded, blended, manufactured or otherwise produced by mixing or blending gasoline or solvents with any blending materials, as hereinafter defined, when the blended product can be used for generating power in internal combustion engines, regardless of how such liquid is made, compounded, manufactured or recovered and regardless of the name by which such liquid may be known or sold;

9. "Government vehicle" means all motor vehicles, including, but not limited to, transit vehicles operated by any entity pursuant to Section 4031 et seq. of Title 69 of the Oklahoma Statutes or designated as public transit by the Oklahoma Department of Transportation, buses, trucks, law enforcement vehicles and emergency vehicles, owned and operated by the State of Oklahoma, any public trust authority, county, municipality, town or city within this state;

10. "Sale" means sales, barters, exchanges, and every other manner, method, and form of transferring the ownership of personal property from one person to another, and also includes the use or consumption in this state in the first instance of gasoline received from without the state or of any other gasoline upon which the surcharge has not been paid;

11. "School vehicle" means all buses and multi-passenger motor vehicles owned and approved to operate by the State Department of Education or any school district within this state; and

12. "Solvents" means especially prepared commercial and industrial solvents, cleaners' and painters' naphthas, and raw petroleum materials or petrochemical intermediates when used as or sold for use in production or manufacture of plastics, detergents, synthetic rubber, herbicides, insecticides and other chemicals or products which are not prepared, advertised, offered for sale, or sold for use or suitable for use as fuel for generating power in internal combustion engines. **(74-130.2)**

Section 1027. Recovery of Reasonable Expenses of Conversion.

A. All school vehicles and all government vehicles may be converted to operate on an alternative fuel. The state, any county or municipal government and any school district within the state may have access to the Oklahoma Alternative Fuels Conversion Fund and the reasonable expenses of the conversions and/or the installation of a fill station or charge station may be reimbursed in the manner pursuant to Section 130.4 of this title if the state, county, municipality or school district can pay back such conversion and/or fill station or charge station installation costs within seven (7) years of the date of conversion and/or fill station or charge station installation. Beginning July 1, 1995, all school districts within this state should consider only purchasing school vehicles which have the capability to operate on an alternative fuel.

B. The reasonable expenses of the conversion of the school vehicle fleets and the government vehicle fleets that are converted pursuant to subsection A of this section shall be reimbursed in the manner pursuant to Section 130.4 of this title.

C. The reasonable expenses of the installation of a fill station or charge station that is installed pursuant to subsection A of this section shall be reimbursed in the manner pursuant to Section 130.4 of this title.

D. Any vehicle converted to have the capability of being fueled or charged by alternative fuels pursuant to the provisions of the Oklahoma Alternative Fuels Conversion Act shall not be sold or otherwise transferred to another person or entity before the total reimbursement of the cost of such conversion pursuant to the provisions of the Oklahoma Alternative Fuels Conversion Act unless such conversion equipment is removed and installed on another government vehicle or school vehicle owned by such public entity.

E. Any fill station or charge station installed pursuant to the provisions of the Oklahoma Alternative Fuels Conversion Act shall not be sold or otherwise transferred to another person or entity before the total reimbursement of the cost of such fill station or charge station pursuant to the provisions of the Oklahoma Alternative Fuels Conversion Act.

F. All school vehicles and all government vehicles which are converted to operate on alternative fuel shall be required to use such alternative fuel whenever a fill station or charge station is in operation within a five-mile radius of the respective department, district, agency, office, or political subdivision that has converted vehicles to operate on

alternative fuel, and the price of the alternative fuel is comparable to the price of the fuel being displaced. School vehicles and government vehicles that are capable of operating on a conventional fuel as well as an alternative fuel shall be exempt from this restriction on those occasions when the vehicle or vehicles must be refueled outside the five-mile radius of the respective department, district, agency, office or political subdivision that has said vehicle and no alternative fuel fill station or charge station is reasonably available. **(74-130.3)**

Section 1028. Weapons Prohibited in Public Buildings.

UNLAWFUL CARRY IN CERTAIN PLACES

A. It shall be unlawful for any person in possession of a valid concealed handgun license issued pursuant to the provisions of the Oklahoma Self-Defense Act to carry any concealed handgun into any of the following places:

1. Any structure, building, or office space which is owned or leased by a city, town, county, state, or federal governmental authority for the purpose of conducting business with the public;

2. Any meeting of any city, town, county, state or federal officials, school board members, legislative members, or any other elected or appointed officials;

3. Any prison, jail, detention facility or any facility used to process, hold, or house arrested persons, prisoners or persons alleged delinquent or adjudicated delinquent;

4. Any elementary or secondary school;

5. Any sports arena during a professional sporting event;

6. Any place where pari-mutuel wagering is authorized by law; and

7. Any other place specifically prohibited by law.

B. For purposes of paragraphs 1, 2, 3, 5 and 6 of subsection A of this section, the prohibited place does not include and specifically excludes the following property:

1. Any property set aside for the use or parking of any vehicle, whether attended or unattended, by a city, town, county, state, or federal governmental authority;

2. Any property set aside for the use or parking of any vehicle, whether attended or unattended, by any entity offering any professional sporting event which is open to the public for admission, or by any entity engaged in pari-mutuel wagering authorized by law;

3. Any property adjacent to a structure, building, or office space in which concealed weapons are prohibited by the provisions of this section; and

4. Any property designated by a city, town, county, or state, governmental authority as a park, recreational area, or fairgrounds; provided, nothing in this paragraph shall be construed to authorize any entry by a person in possession of a concealed handgun into any structure, building, or office space which is specifically prohibited by the provisions of subsection A of this section.

Nothing contained in any provision of this subsection shall be construed to authorize or allow any person in control of any place described in paragraph 1, 2, 3, 5 or 6 of subsection A of this section to establish any policy or rule that has the effect of prohibiting any person in lawful possession of a concealed handgun license from possession of a handgun allowable under such license in places described in paragraph 1, 2, 3 or 4 of this subsection.

C. Any person violating the provisions of subsection A of this section shall, upon conviction, be guilty of a misdemeanor punishable by a fine not to exceed Two Hundred Fifty Dollars ($250.00). Any person convicted of violating the provisions of subsection A of this section may be liable for an administrative fine of Two Hundred Fifty Dollars ($250.00) upon a hearing and determination by the Oklahoma State Bureau of Investigation that the person is in violation of the provisions of subsection A of this section.

D. No person in possession of a valid concealed handgun license issued pursuant to the provisions of the Oklahoma Self-Defense Act shall be authorized to carry the handgun into or upon any college, university, or technology center school property, except as provided in this subsection. For purposes of this subsection, the following property shall not be construed as prohibited for persons having a valid concealed handgun license:

1. Any property set aside for the use or parking of any vehicle, whether attended or unattended, provided the handgun is carried or stored as required by law and the handgun is not removed from the vehicle without the prior consent of the college or university president or technology center school administrator while the vehicle is on any college, university, or technology center school property;

2. Any property authorized for possession or use of handguns by college, university, or technology center school policy; and

3. Any property authorized by the written consent of the college or university president or technology center school administrator, provided the written consent is carried with the handgun and the valid concealed handgun license while on college, university, or technology center school property.

The college, university, or technology center school may notify the Oklahoma State Bureau of Investigation within ten (10) days of a violation of any provision of this subsection by a licensee. Upon receipt of a written notification of violation, the Bureau shall give a reasonable notice to the licensee and hold a hearing. At the hearing upon a determination that the licensee has violated any provision of this subsection, the licensee may be subject to an administrative fine of Two Hundred Fifty Dollars ($250.00) and may have the concealed handgun license suspended for three (3) months.

Nothing contained in any provision of this subsection shall be construed to authorize or allow any college, university, or technology center school to establish any policy or rule that has the effect of prohibiting any person in lawful possession of a concealed handgun license from possession of a handgun allowable under such license in places described in paragraphs 1, 2 and 3 of this subsection. Nothing contained in any provision of this subsection shall be construed to limit the authority of any college or university in this state from taking administrative action against any student for any violation of any provision of this subsection.

E. The provisions of this section shall not apply to any peace officer or to any person authorized by law to carry a pistol in the course of employment. District judges, associate district judges and special district judges, who are in possession of a valid concealed handgun license issued pursuant to the provisions of the Oklahoma Self-Defense Act and whose names appear on a list maintained by the Administrative Director of the Courts, shall be exempt from this section when acting in the course and scope of employment within the courthouses of this state. Private investigators with a firearms authorization shall be exempt from this section when acting in the course and scope of employment. **(21-1277)**

Note: Amended by HB 1652, Sec. 1 of the 2011 Reg. Sess. Effective November 1, 2011.

Section 1029. (Omitted)

Section 1030. Penalties to Parent for Child With Firearm at School.

Any custodial parent or guardian of a child under eighteen (18) years of age whose child commits the crime of possession of a firearm on school property may be fined not exceeding Two Hundred Dollars ($200.00), or ordered to perform community service not exceeding forty (40) hours or both such fine and community service. To satisfy any community service requirement, the court may give preference to work which benefits the school said child attends. Said penalty shall be an administrative penalty and shall not be recorded on the custodial parent's or guardian's criminal record. The fine shall be payable to the court clerk to be deposited in the court fund. Nothing in this section shall prohibit the filing or prosecution of any criminal charge. **(21-858)**

Section 1031. Weapons Prohibited - School Property and Vehicles.

POSSESSION OF FIREARM ON SCHOOL PROPERTY

A. It shall be unlawful for any person to have in his or her possession on any public or private school property or while in any school bus or vehicle used by any school for transportation of students or teachers any firearm or weapon designated in Section 1272 of this title, except as provided in subsection C of this section or as otherwise authorized by law.

B. "School property" means any publicly or privately owned property held for purposes of elementary, secondary or vocational-technical education, and shall not include property owned by public school districts or private educational entities where such property is leased or rented to an individual or corporation and used for purposes other than educational.

C. Firearms and weapons are allowed on school property and deemed not in violation of subsection A of this section as follows:

1. A gun or knife designed for hunting or fishing purposes kept in a privately owned vehicle and properly displayed or stored as required by law, or a handgun carried in a vehicle pursuant to a valid handgun license authorized by the Oklahoma Self-Defense Act, provided such vehicle containing said gun or knife is driven onto school property only to transport a student to and from school and such vehicle does not remain unattended on school property;

2. A gun or knife used for the purposes of participating in the Oklahoma Department of Wildlife Conservation certified hunter training education course or any other hunting, fishing, safety or firearms training courses, or a recognized firearms sports event, team shooting program or competition, or living history reenactment, provided the course or event is approved by the principal or chief administrator of the school where the course or event is offered, and provided the weapon is properly displayed or stored as required by law pending participation in the course, event, program or competition; and

3. Weapons in the possession of any peace officer or other person authorized by law to possess a weapon in the performance of their duties and responsibilities.

D. Any person violating the provisions of this section shall, upon conviction, be guilty of a felony punishable by a fine not to exceed Five Thousand Dollars ($5,000.00), and imprisonment for not more than two (2) years. Any person convicted of violating the provisions of this section after having been issued a concealed handgun license pursuant to the provisions of the Oklahoma Self-Defense Act shall have the license permanently revoked and shall be liable for an administrative fine of One Hundred Dollars ($100.00) upon a hearing and determination by the Oklahoma State Bureau of Investigation that the person is in violation of the provisions of this section. **(21-1280.1)**

Section 1032. School Traffic Guards for Streets and Highways Outside Municipalities - Employment by County.

The board of county commissioners may authorize employment of school guards for the sole and only purpose of directing travel and traffic on streets and highways outside the limits of incorporated cities and towns whenever the board deems it necessary to protect the life and safety of pupils attending the public schools of this state. School guards so employed shall meet the qualifications, perform such duties, and have such tenure as prescribed by the board of county commissioners. The school guards shall be paid a salary fixed by the board of county commissioners and shall be paid from the general fund as stipulated by the county excise board. (**19-453)**

Section 1033. Speed Limit for School Buses - School Zones Outside Municipalities - Signs.

(Beginning of statute omitted)

4. For a school bus, fifty-five (55) miles per hour on paved two-lane highways except on turnpikes and interstate highways where the maximum shall be sixty-five (65) miles per hour;

5. On any highway outside of a municipality in a properly marked school zone, of twenty-five (25) miles per hour, provided the zone is marked with appropriate warning signs placed in accordance with the latest edition of the Manual on Uniform Traffic Control Devices. The Department of Transportation may determine on the basis of an engineering and traffic investigation that a speed limit higher than twenty-five (25) miles per hour may be reasonable and safe under conditions as they exist upon a highway, and post an alternative school zone speed limit. The Department shall mark such school zones, or entrances and exits onto highways by buses or students, so that the maximum speed provided by this section shall be established therein. Exits and entrances to controlled access highways which are within such school zones shall be marked in the same manner as other highways. The county commissioners shall mark such school zones along the county roads so that the maximum speed provided by this section shall be established therein. The signs may be either permanent or temporary. The Department shall give priority over all other signing projects to the foregoing duty to mark school zones. The Department shall also provide other safety devices for school zones which are needed in the opinion of the Department;

6. Twenty-five (25) miles per hour or a posted alternative school zone speed limit through state schools located on the state-owned land adjoining or outside the limits of a corporate city or town where a state educational institution is established.

* * * * *

D. The Oklahoma Turnpike Authority is hereby authorized to prescribe maximum and minimum speeds for trucks, buses and automobiles using turnpikes. The regulation pertaining to automobiles shall apply to all vehicles not commonly classified as either trucks or buses. Such regulations shall become effective only after approval by the Commissioner of Public Safety, and after signs have been posted on the turnpike giving notice thereof. Such regulations may apply to an entire turnpike project or to selected sections thereof as may be designated by the Oklahoma Turnpike Authority. It shall be a violation of this section to drive a vehicle at a faster rate of speed than such prescribed maximum speed or at a slower rate of speed than such prescribed minimum speed. However, all vehicles shall at all times conform to the requirements of subsection A of this section.

Copies of such regulations, certified as in effect on any particular date by the Secretary of the Oklahoma Turnpike Authority, shall be accepted in evidence in any court in this state. * * * (remainder of statute omitted) **(47-11-801)**

Section 1034. School Zone Speed Limits Signs in Municipalities.

(Beginning of statute omitted)

B. Any municipal governing body which establishes ordinances and regulations governing school zone speed limits, shall place school zone signs designating the beginning and end of the zone on the side or in the center of the roadway. Such end zone signing shall be as follows:

1. On roadways of two driving lanes, only the end zone signing may be on either side of the roadway or in the center of the roadway; and

2. On roadways in excess of two driving lanes, the end zone signing shall be on the right side of the roadway or in the center of the roadway if said roadway is divided by a median. **(11-22-117)**

Section 1035. Penalties for Advocating Certain Unlawful Acts.

A. The Legislature recognizes that special circumstances exist as regards college campuses and public school facilities, including the fact that a large number of people are confined to a small area, and certain acts committed in such places would have a more detrimental effect as regards the health and safety of those involved than if the same act were committed at some other place, and, in keeping with these facts, any person on the campuses or school grounds of any public state-supported institutions of higher learning or public school facilities who, by word of mouth or writings, advocates, affirmatively suggests or teaches the duty, necessity, propriety or expediency of crime, criminal syndicalism, or sabotage, or who shall advocate, affirmatively suggest or teach the duty, necessity, propriety or expediency of doing any act of violence, the destruction of or damage to any property, the bodily injury to any person or persons, or the commission of any crime or unlawful act as a means of accomplishing or effecting any industrial or political ends, change, or revolution, or for profit; or who prints, publishes, edits, issues, or knowingly circulates, sells, distributes, or publicly displays any books, pamphlets, paper, handbill, poster, document, or written or printed matter

in any form whatsoever, containing matter advocating, advising, affirmatively suggesting, or teaching crime, criminal syndicalism, sabotage, the doing of any act of physical violence, the destruction of or damage to any property, the injury to any person, or the commission of any crime or unlawful act as a means of accomplishing, effecting or bringing about any industrial or political ends, or change, or as a means of accomplishing, effecting or bringing about any industrial or political revolution, or for profit; or who shall openly or at all attempt to justify by word of mouth or writing the commission or the attempt to commit sabotage, any act of physical violence, the destruction of or damage to any property, the injury to any person or the commission of any crime or unlawful act, with the intent to exemplify, spread or teach or affirmatively suggest criminal syndicalism, or who organizes, or helps to organize or becomes a member of or voluntarily assembles with any society or assemblage of persons which teaches, advocates, or affirmatively suggests the doctrine of criminal syndicalism, sabotage, or the necessity, propriety or expediency of doing any act of physical violence or the commission of any crime or unlawful act as a means of accomplishing or effecting any industrial or political ends, change or revolution, or for profit; shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the State Penitentiary for a term not less than two (2) years, nor more than ten (10) years, or by a fine of not less than Five Thousand Dollars ($5,000.00), nor more than Ten Thousand Dollars ($10,000.00), or by both such fine and imprisonment. Provided, that none of the provisions of this section shall be construed to modify or affect Section 166 of Title 40 of the Oklahoma Statutes.

B. Any person on the campuses or school grounds of any public state-supported institutions of higher learning or public school facilities above the age of eighteen (18) years who advocates revolution, teaches or justifies a program of sabotage, force and violation, sedition or treason against the government of the United States or of this state, or who directly or indirectly advocates or teaches by any means the overthrow of the government of the United States or of this state by force or any unlawful means shall be guilty of a felony, and upon conviction shall be punished by imprisonment in the State Penitentiary from ten (10) years to life. **(21-1327)**

Section 1036. Prosecutions for Advocating Unlawful Acts.

Pursuant to the provisions of 74 Oklahoma Statues, Section 18b, in event the district attorney within a district fails or refuses to prosecute, on a sworn complaint, against any person accused of violating the provisions of this act, then in that event, the state Attorney General, upon sworn complaint laid before him, is hereby empowered to prosecute a person or persons accused of committing acts covered by this act, if said acts were committed upon the grounds of the facilities hereinabove set out. **(21-1328)**

Section 1037. Damages - Liability of Parents.

A. The state or any county, city, town, municipal corporation or school district, or any person, corporation or organization, shall be entitled to recover damages in a court of competent jurisdiction from a parent or parents of any child under the age of eighteen (18) years when the child is living with the parent or parents at the time of the act, and commits any criminal or delinquent act resulting in bodily injury to any person or damage to or larceny of any property, real, personal or mixed, belonging to the state or a county, city, town, municipal corporation, school district, person, corporation or organization. The amount of damages awarded pursuant to this subsection shall not exceed Two Thousand Five Hundred Dollars ($2,500.00).

B. Any victim, or the victim's representative in the event of the victim's death, shall be entitled to recover damages in a court of competent jurisdiction from any person convicted of a violation of subsection B of Section 1273 of Title 21 of the Oklahoma Statutes or as otherwise allowed by law. **(23-10)**

> Trial court in delinquency proceeding is authorized to order non-custodial parent to pay restitution for damage caused by child who was not living in non-custodial parent's home at time of delinquent act. *In re J.L.M.*, 2005 OK 15, 109 P.3d 336

Section 1038. Removal of Non-students from Institutions of Learning - Definitions.

When used in this act the following words and phrases shall have the following meanings, except to the extent that any such word or phrase is qualified by its context:

1. "Chief administrative officer" shall mean the president, superintendent, principal or other person in charge of the management, administration or control of any university, college, elementary or secondary school or other private or public institution of learning subject to the Oklahoma Higher Education Code or the School Laws of Oklahoma.

2. "Institution of Learning" shall mean any university, college, elementary or secondary school or other private or public institution of learning subject to the Oklahoma Higher Education Code or the School Laws of Oklahoma, and includes the area or property under the jurisdiction of such institution. **(21-1375)**

Section 1039. Authority to Order Non-students to Leave Institution.

A. The chief administrative officer or anyone designated by the chief administrative officer or the governing board of the institution of learning to maintain order at an institution of learning shall have the authority and power to direct any person to leave the institution of learning who is not a student, officer or employee thereof, and who:

1. Interferes with the peaceful conduct of activities at an institution of learning;

2. Commits an act which interferes with the peaceful conduct of activities at an institution of learning; or

3. Enters the institution of learning for the purpose of committing an act which may interfere with the peaceful conduct of activities at an institution of learning.

B. Any person to whom this section applies, who fails to leave the institution of learning as directed or returns within six (6) months thereafter, without first obtaining written permission from the chief administrative officer or anyone designated by the chief administrative officer or the governing board of the institution of learning, shall be guilty of a misdemeanor.

C. "Interferes with the peaceful conduct" includes actions that directly interfere with classes, study, student or faculty safety, housing or parking areas, or extracurricular activities; threatening or stalking any person; damaging or causing waste to any property belonging to another person or the institution of learning; or direct interference with administration, maintenance or security of property belonging to the institution of learning.

D. The governing board of each institution of learning shall establish a grievance or appeals procedure and an opportunity for hearing for persons who have been required to leave the institution pursuant to this section. Any person removed from the institution pursuant to this section shall be given written notice of the procedure for requesting a hearing and filing a grievance or appeal. **(21-1376)**

Section 1040. Library Theft - Definition - Punishment.

A. As used in this section:

1. "Library facility" means any:

   a. public library; or

   b. library of an educational, historical or eleemosynary institution, organization, or society; or

   c. museum; or

   d. repository of public or institutional records.

2. "Library material" means any book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, record, microform, sound recording, audiovisual materials in any format, magnetic or other tapes, catalog cards or catalog records, electronic data processing records, computer software, artifacts, or other documentary, written or printed materials regardless of physical form or characteristics, belonging or on loan to, or otherwise in the custody of a library facility.

3. "Demand" means either actual notice to the possessor of any library materials or the mailing of written notice to the possessor at the last address of record which the library facility has for said person, demanding the return of designated library materials. If demand is made by mail it shall be deemed to have been given as of the date the notice is mailed by the library facility.

B. Any person shall be guilty, upon conviction, of library theft who willfully:

1. Removes or attempts to remove any library material from the premises of a library facility without authority; or

2. Mutilates, destroys, alters or otherwise damages, in whole or in part, any library materials; or

3. Fails to return any library materials which have been lent to said person by the library facility, within seven (7) days after demand has been made for the return of the library materials.

C. A person convicted of library theft shall be guilty of a misdemeanor and shall be subject to the fine and restitution provisions of this subsection but shall not be subject to imprisonment. The punishment for conviction of library theft shall be:

1. If the aggregate value of the library material is Five Hundred Dollars ($500.00) or less, by fine not exceeding One Thousand Dollars ($1,000.00), or the offender shall make restitution to the library facility, including payment of all related expenses incurred by the library facility as a result of the actions of the offender, or both such fine and restitution.

2. If the aggregate value of the library material is greater than Five Hundred Dollars ($500.00), by fine not exceeding Ten Thousand Dollars ($10,000.00), or the offender shall make restitution to the library facility, including payment of all expenses incurred by the library facility as a result of the actions of the offender, or both such fine and restitution.

D. Copies of the provisions of this section shall be posted on the premises of each library facility. **(21-1739)**

Section 1041. Assaults at Athletic Contests.

Every person who, without justifiable or excusable cause and with intent to do bodily harm, commits any assault, battery, assault and battery upon the person of a referee, umpire, timekeeper, coach, official, or any person having authority in connection with any amateur or professional athletic contest is guilty of a misdemeanor and is punishable by imprisonment in the county jail not exceeding one (1) year or by a fine not exceeding One Thousand Dollars ($1,000.00), or by both such fine and imprisonment. **(21-650.1)**

Section 1041.1. Assault on Employees and Students.

A. As used in this section, "school employee" means a teacher, principal, or any duly appointed person employed by a school system or employees of a firm contracting with a school system for any purpose, including any personnel not directly related to the teaching process and school board members during school board meetings.

B. Any person who, without justifiable or excusable cause commits any assault, battery, or assault and battery upon the person of a school employee while such employee is in the performance of any duties as a school employee or upon any student while such student is participating in any school activity or attending classes on school property during school hours shall, upon conviction, be guilty of a misdemeanor. The convicted person shall be punished by a term of imprisonment in the county jail for a period not exceeding one (1) year, or by a fine not exceeding Two Thousand Dollars ($2,000.00), or by both such fine and imprisonment.

C. Any person who, without justifiable or excusable cause, commits any aggravated battery or aggravated assault and battery upon the person of a school employee while such employee is in the performance of any duties as a school employee shall, upon conviction, be guilty of a felony punishable by a term of imprisonment in the State Penitentiary for a period not exceeding two (2) years, or by a fine not exceeding Five Thousand Dollars ($5,000.00), or by both such fine and imprisonment.

D. Every school site shall post in a prominent place a notice having the following or similar language: "FELONY CHARGES MAY BE FILED AGAINST ANY PERSON(S) COMMITTING AN AGGRAVATED ASSAULT OR BATTERY UPON ANY SCHOOL EMPLOYEE."

E. For purposes of this section, "assault" shall be defined by Section 641 of Title 21 of the Oklahoma Statutes, "battery" shall be defined by Section 642 of Title 21 of the Oklahoma Statutes, and "aggravated assault and battery" shall be defined by Section 646 of Title 21 of the Oklahoma Statutes. **(21-650.7)**

Section 1042. Projection of Injurious Objects at Athletic or Public Entertainment Events.

It shall be unlawful for any person in attendance at an athletic or other public entertainment event to project in any manner an object which could cause bodily harm to another person.

Any person violating the provisions of this section shall be subject to ejection from the event by the officials supervising the event.

A violation of this section shall be a misdemeanor punishable by a fine not exceeding One Hundred Dollars ($100.00).

The provisions of this section shall not apply to the participants in the athletic or other public entertainment event. **(21-1377)**

Section 1042.1. Sex Offenders Not Allowed to Work on School Premises.

A. It is unlawful for any person registered pursuant to the Oklahoma Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act to work with or provide services to children or to work on school premises, or for any person or business which contracts for work to be performed on school premises to knowingly and willfully allow any employee to work with children or to work on school premises who is registered pursuant to the Oklahoma Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act. Upon conviction for any violation of the provisions of this subsection, the violator shall be guilty of a misdemeanor punishable by a fine not to exceed One Thousand Dollars ($1,000.00). In addition, the violator may be liable for civil damages.

B. 1. A person or business who offers or provides services to children shall ensure compliance with subsection A of this section by conducting a name search of employees at least annually against the registries maintained pursuant to the Oklahoma Sex Offenders Registration Act and the Mary Rippy Violent Crime Offenders Registration Act while such person is working with or serving children. All persons working with or providing services to children shall be required to sign a statement declaring that he or she is not currently required to register under the provisions of the Oklahoma Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act. Compliance with the signed statement shall be mandatory for all persons working with or providing services to children, and there shall be no liability or obligation placed upon any person or business to ascertain the truthfulness of the affidavit. Any person or business having a contract with a school shall ensure compliance as provided by Section 6-101.48 of Title 70 of the Oklahoma Statutes.

2. Failure of any person or business who works with or provides services to children to conduct the annual name search of each person employed shall be a misdemeanor. Upon conviction for failure to conduct a name search, the violator shall be guilty of a misdemeanor punishable by a fine not to exceed One Thousand Dollars ($1,000.00). Refusal of any person who is employed to work with or provide services to children to sign a statement declaring they have no requirement to register as provided in this section shall be a misdemeanor, upon conviction, punishable by a fine not to exceed One Thousand Dollars ($1,000.00), and the person shall be immediately terminated from employment. Any person discovering an employment or registration violation as required by any provision of law for any person currently employed to work with or provide services to children has a duty to and shall immediately report such findings to the district attorney.

C. It is unlawful for any law enforcement agency to employ any person as a peace officer or criminal investigator who has received a verdict of guilty or pled guilty or nolo contendere to any offense required to register pursuant to the Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act, including those receiving a verdict of guilt, pleading guilty or nolo contendere as part of a deferred judgment or other provision of law authorizing a delayed or suspended judgment or sentence. Every person receiving a verdict of guilty or pleading guilty or nolo contendere to any offense required to register pursuant to the Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act shall be prohibited from being certified by the Council on Law Enforcement Education and Training (CLEET) as a peace officer, private investigator, or security guard, and if at the time of the verdict or plea such person has been previously CLEET certified such certification shall be revoked. Any violator shall be guilty of a misdemeanor upon conviction of noncompliance with the provisions of this subsection. **(57-589)**

Note: See also 140.1.

Section 1042.2. Sex Offender Registry.

* * * * *

E. The Department of Corrections shall maintain a file of all sex offender registrations. A copy of the information contained in the registration shall promptly be available to state, county and municipal law enforcement agencies, the State Superintendent of Public Instruction, and the National Sex Offender Registry maintained by the Federal Bureau of Investigation. The file shall promptly be made available for public inspection or copying pursuant to rules promulgated by the Department of Corrections and may be made available through Internet access. The Department of Corrections shall promptly provide all municipal police departments, all county sheriff departments and all campus police departments a list of those sex offenders registered and living in their county. The Superintendent of Public Instruction is authorized to copy and shall distribute information from the sex offender registry to school districts and individual public and private schools within the state with a notice using the following or similar language: "A person whose name appears on this registry has been convicted of a sex offense. Continuing to employ a person whose name appears on this registry may result in civil liability for the employer or criminal prosecution pursuant to Section 589 of Title 57 of the Oklahoma Statutes." * * * **(57-584)**

Section 1042.3. Access to Registries.

A. All persons, businesses and organizations in this state shall have access to search and identify individual names contained in the Oklahoma Sex Offender Registry and the Mary Rippy Violent Crime Offenders Registry for purposes of verifying a person's suitability for employment, volunteering, and for screening persons at risk of potential harm to children who may work with or provide services to children by utilizing one or more of the following methods:

1. A person may contact the Oklahoma State Bureau of Investigation, complete a form and pay the required fees for a name search of both the Oklahoma Sex Offender Registry and the Mary Rippy Violent Crime Offenders Registry and, if desired, search other criminal history records pertaining to the person upon payment of the required fees;

2. A person may conduct a free self-initiated search of both the Oklahoma Sex Offender Registry and the Mary Rippy Violent Crime Offenders Registry using a computer-Internet link to connect to a state-agency-controlled database containing the names of all persons currently registered on the Oklahoma Sex Offender Registry and the Mary Rippy Violent Crime Offenders Registry; or

3. A person may contact either their local law enforcement agency or the Department of Corrections, complete the form and pay the required fees for a name search of both the Oklahoma Sex Offender Registry and the Mary Rippy Violent Crime Offenders Registry.

B. The Department of Corrections shall develop the necessary policies, procedures, forms and data access to make the provisions of this section effective statewide and may publish web sites or other information to assist the public in learning where and how to conduct a name search of the two registries authorized in this section. The information provided in a name search shall include the searched person's full name, any alias names, the crime which requires registration, and whether the person is deemed a habitual or aggravated offender. In addition, information may be provided in the name search concerning the date and place of the offense, the sentence disposition, a photograph of the registered person, and other pertinent information including the current residence location. There shall be no liability to any governmental agency for the release or publication of any information maintained on the Oklahoma Sex Offender Registry or the Mary Rippy Violent Crime Offenders Registry under this section authorizing public access to a name search for purposes of risk of potential harm to a child by a caregiver or for suitability for employment. **(57-599.1)**

Section 1043. Fire Drills.

A. All public schools shall have a minimum of two fire drills per semester. The first fire drill shall be conducted within the first fifteen (15) days of each semester. The second fire drill must occur after the first thirty (30) days of the semester. All students and teachers at the public schools shall participate.

B. It shall be the duty of the principal, under the direction of the superintendent of the school district to formulate procedures for the orderly evacuation of buildings upon the sounding of a distinctive audible signal designated as the fire alarm signal.

C. Each public school district shall document each fire drill in writing by public school site. The records for each fire drill shall be preserved for at least three (3) years and made available to the State Fire Marshal or the Marshal's agent upon request. **(63-176)**

Section 1044. Smoke Detectors.

A. Any person, partnership, corporation, organization, the state, or city, town, county, or other subdivision of this state, owning a building or structure used as a hospital, church, theater, hotel, motel, apartment house, rooming house, dormitory, rest home, nursing home, day nursery, convalescent home, auditorium, or child care institution, existing or constructed in the State of Oklahoma, shall install in such building or structure a smoke detector or detectors in accordance with the nationally recognized codes, standards, or practices adopted by the State Fire Marshal Commission to safeguard life and property from the hazards of smoke and fire.

B. For the purpose of this section, the term smoke detector means a device which is:

1. Designed to detect visible or invisible products of combustion;

2. Designed with an alarm audible to the rooms it serves;

3. Powered by either battery, alternating current, or other power source; and

4. Tested and listed for use as a smoke detector by a recognized testing laboratory.

C. Any person, partnership, corporation, state, municipality, county, or other subdivision of this state who is a lessor of a residential rental property shall explain to the lessee or tenant the method of testing the smoke detector to ensure that it is in working order. The responsibility for checking a smoke detector to find out whether such detector is in working order is with the tenant or lessee leasing or renting a one- or two-family dwelling, including an apartment in each apartment house, and not with the person, partnership, corporation, state, municipality, county, or other subdivision of this state who is a lessor of the residential rental property to the lessee or tenant.

D. Beginning November 1, 1997, all new construction or remodeling of residential dwelling which require a building permit shall include the installment of smoke detectors or the electrical wiring necessary for the installment of electrical smoke detectors.

E. Any person who violates any provision of subsection A of this section or any person who tampers with, removes, destroys, disconnects or removes power from any installed smoke detector, except in the course of inspection, maintenance or replacement of the detector, upon conviction, is guilty of a misdemeanor and may be fined not less than Fifty Dollars ($50.00) nor more than One Hundred Dollars ($100.00).

F. Nothing in this section shall be construed to allow any political subdivision in this state to enact laws imposing upon owners of any dwelling described in subsection A of this section a greater duty with regard to the installation, testing, repair and replacement of smoke detectors than is required by this section.

G. The State Fire Marshal Commission shall prescribe, adopt, and promulgate the rules necessary to effectuate the provisions of this section which shall include a practical time table for compliance with the provisions of this act.

H. Municipalities may enact ordinances in order to enforce the rules of the State Fire Marshall Commission as provided by this section. **(74-324.11a)**

Section 1045. Safe Workplace and Safety Training of Employees.

A. Each employer shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees, commensurate with the Occupational Safety and Health Act of 1970.

B. No person shall discharge, discriminate or take adverse personnel action against any employee because such employee has filed any complaint, or instituted or caused to be instituted any proceeding under or related to this act,

or has testified or is about to testify in any such proceeding, or because of the exercise by such employee on behalf of himself or herself or others of any right affected by this act.

C. Within forty-eight (48) hours after the occurrence of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, the employer of any employees so injured or killed shall report the accident in writing to the Oklahoma City office of the Oklahoma Department of Labor, in a manner prescribed by the Department. The Commissioner of Labor may require such additional reports as he deems necessary, including the official death certificate from the Oklahoma State Department of Health.

D. No rule or standard promulgated under this act shall, or shall be deemed to, establish legal standards of conduct or legal duties, the violation of which standards or duties would constitute negligence or gross negligence in any civil proceeding.

E. Every employer having twenty-five (25) or more full- or part-time employees shall:

1. Designate an employee who shall coordinate all safety programs of the employer;

2. Provide safety classes to each type or class of employee no less than quarterly, except that public schools shall only be required to provide safety classes or instruction to their employees during the school year. Provided further, public school employees who are certified personnel and are in compliance with federal OSHA occupational safety and health standards shall be exempt from such safety classes or instruction and shall not be included in the computation of the number of employees set forth in subsection E of this section for determining the requirement of such safety classes or instruction; and

3. Cooperate with the Department of Labor including allowing any announced inspection of the premises for the purpose of determining compliance with this subsection.

The provisions of this subsection shall not apply to any hospital which is subject to the rules of the U.S. Department of Health and Human Services, Health Care Financing Administration (HCFA), as set forth in 42 CFR Parts 405, 412, 416, 417, 440, 441, 456, 482 and 489; Medicare and Medicaid Programs; Conditions of Participation for Hospitals, Final Regulations. **(40-403)**

Note: School districts are subject to the Oklahoma Occupational Health and Safety Standards Act. The complete act can be found at 40 O.S. §401, et seq.

Sec. 1983 is not a federal statutory remedy that sufficiently protects the Oklahoma policy goal of reporting unsafe or unhealthy conditions in public buildings. County employee could bring wrongful discharge action against commissioners for "whistleblower" claim. *Vasek v. Board of County Commissioners, 2008 OK 35*

Section 1045.1. Information Regarding Forestry and Forest Fires.

A. It shall be the duty of all forest rangers to distribute in all of the public schools and high schools of the county in which they are serving all the books, periodicals, and other literature that may, from time to time, be sent out to the rangers by the state and federal forestry agencies dealing with forest conservation, development, protection, and management.

B. It shall be the duty of the various rangers under the direction of the Director, and the duty of the teachers of the various schools, both public schools and high schools, to post at some conspicuous place in the various classrooms of the school buildings the appropriate bulletins and posters as may be sent out from the forestry agencies for that purpose; and the teachers and rangers may prepare lectures or talks to be made to the pupils of the various schools on the subject of forest fires, their origin and their destructive effect on the plant life and tree life of the forests of the state, the development and scientific management of the forests of the state, and may be prepared to give practical instruction to their pupils as often as they may find it possible to do so. **(2-1301-311)**

Section 1045.2. Identification Cards, School.

A. The following entities may create, publish or otherwise manufacture an identification document, identification card, or identification certificate and may possess an engraved plate or other such device for the printing of such identification; provided, the name of the issuing entity shall be clearly printed upon the face of the identification:

* * * *

4. Any public school or state or private educational institution, as defined by Sections 1-106, 21-101 or 3102 of Title 70 of the Oklahoma Statutes, to identify the bearer as an administrator, faculty member, student or employee;

Such documents (D) * * * is only valid for use on the campus or facility of that educational institution and includes a statement of such restricted validity clearly and conspicuously printed upon the face of the identification document.

* * * *

(21-1550.42)

Section 1046. Delinquency and Youth Gang Intervention and Deterrence Act.

A. Sections 13 through 17 of this act shall be known and may be cited as the "Delinquency and Youth Gang Intervention and Deterrence Act".

B. The Legislature recognizes that the economic cost of crime to the state and communities continues to drain existing resources, and the cost to victims, both economic and psychological, is traumatic and tragic. The Legislature further recognizes that many adults in the criminal justice system were once delinquents in the juvenile justice system. The Legislature also recognizes that the most effective juvenile delinquency programs are programs that not only prevent children from entering the juvenile justice system, but also meet local community needs and have substantial community involvement and support. Therefore, it is the belief of the Legislature that one of the best investments of scarce resources available to combat crime is to counteract the negative social and economic factors that contribute to criminal and delinquent behavior by engaging youth, at an early age, in positive programs and opportunities at the local, neighborhood and community level.

C. For the purpose of reducing the likelihood of later involvement in criminal or delinquent activities, the intent of the Legislature in enacting the Delinquency and Youth Gang Intervention and Deterrence Act is to provide for school, school-related and after-school programs for children in grades 1 through 12, and their families, who live in at-risk school districts, neighborhoods and communities and to aid all communities in developing delinquency prevention and early intervention programs and activities. **(10-1507.10)**

Section 1047. Definitions.

For the purposes of the Delinquency and Youth Gang Intervention and Deterrence Act:

1. "At-risk school districts, neighborhoods and communities" means that within the school district, neighborhood or community the incidence of reported juvenile crime or referrals for juvenile court intakes, or some combination of both such incidence and referrals as approved by the Office of Juvenile Justice, is significantly higher than the statewide statistical mean for such incidence, referrals or combination;

2. "School, school-related or after-school programs and activities" includes delinquency prevention or early intervention programs and activities that occur during or outside of regular school hours; and

3. "Delinquency prevention and early intervention programs and activities" includes but is not limited to the following for participating youth: Intensive school and school-related programs, such as tutoring and other educational services, vocational training, and counseling, employment services, recreational opportunities, and counseling services, such as family counseling, mental health counseling, substance abuse outpatient treatment, education programs, and programs and services involving the families of participating youth. **(10-1507.11)**

Section 1048. Responsibilities of State Agencies.

A. From funds appropriated or otherwise available for that purpose, the Department of Human Services through its Office of Juvenile Justice shall:

1. Issue requests for proposals and contract with eligible entities for delinquency prevention and early intervention programs; and

2. Provide information and technical assistance to school districts, neighborhood and community organizations, and agencies within the children and youth service system, as that term is defined by the Serious and Habitual Juvenile Offender Act, for the purpose of assisting them to make application for federal, state and private grants for delinquency prevention and early intervention programs.

B. The Office of Juvenile Justice, with the assistance of and information provided by the Oklahoma Commission on Children and Youth and the Oklahoma State Bureau of Investigation, shall establish criteria for:

1. Identifying at-risk neighborhoods, school districts, communities and specific areas within school districts and communities for the purposes of determining eligibility for any grants for at-risk areas available pursuant to the Delinquency and Youth Gang Intervention and Deterrence Act; and

2. Determining eligibility for communities seeking other grants pursuant to the Delinquency and Youth Gang Intervention and Deterrence Act.

The Oklahoma Commission on Children and Youth and the Oklahoma State Bureau of Investigation shall provide the Office of Juvenile Justice with information and assistance, as requested by the Office, for the purpose of establishing the criteria required by this section. **(10-1507.12)**

Section 1049. Rules for Submission of Proposals and Implementary Act.

A. The Commission for Human Services shall establish the proposal submission and education procedures and criteria and shall promulgate rules as necessary for the implementation of the Delinquency and Youth Gang Intervention and Deterrence Act.

B. In order to be eligible for an at-risk grant contract pursuant to the Delinquency and Youth Gang Intervention and Deterrence Act the proposal shall, at minimum:

1. Be a joint proposal made by an at-risk school district, neighborhood organization, municipality or county and one or more agencies or organizations within the children and youth service system. If a school district is not a joint participant in the proposal, the proposal shall document and describe the active participation in and support of the local school district in the program and activities for which the proposal is submitted;

2. Be for programs and activities for children not less than six (6) years of age, or in grades 1 through 12, whichever is applicable;

3. Describe the respective roles and responsibilities for the administration and operation of the program and activities, including but not limited to the designation of the entity responsible for the receipt and expenditure of any funds awarded pursuant to the Delinquency and Youth Gang Intervention and Deterrence Act;

4. Specifically identify the area within a school district or community or the neighborhood where the programs and activities will be implemented;

5. Describe how the program will coordinate and cooperate with programs and services administered by the Department of Human Services, the State Department of Education, and other state or local agencies, such as law enforcement, courts and other agencies within the children and youth service system; and

6. Provide the program and activities on-site in a school, community center, or similar location within the neighborhood or identified area of the school district or community.

C. In order to be eligible for any other grand contract pursuant to the Delinquency and Youth Gang Intervention and Deterrence Act, the proposal shall, at a minimum:

1. Describe the respective roles and responsibilities for the administration and operation of the program and activities, including but not limited to the designation of the entity responsible for the receipt and expenditure of any funds awarded pursuant to the Delinquency and Youth Gang Intervention and Deterrence Act; and

2. Describe how the program will coordinate and cooperate with programs and services administered by the Department of Human Services, the State Department of Education, and other state or local agencies, such as law enforcement, courts, and other agencies within the children and you service system.

D. Each entity which receives a contract pursuant to this section shall submit an annual evaluation report to the Department of Human Services, by a date subsequent to the end of the contract period as established by the Department, documenting the extent to which the program objectives have been met and any other information required by the Department. **(10-1507.13)**

Section 1050. Transfer of Implementation Responsibilities to Department of Juvenile Justice.

Effective July 1, 1995, the responsibility for implementation of the Delinquency and Youth Gang Intervention and Deterrence Act shall be transferred to the Department of Juvenile Justice. **(10-1507.14)**

Section 1051. Oklahoma Campus Security Act.

This act shall be known and may be cited as the "Oklahoma Campus Security Act". **(74-360.15)**

Section 1052. Definitions.

As used in the Oklahoma Campus Security Act:

1. "Campus" means the real property, buildings and other improvements within this state owned, leased or rented by an institution of higher education or a public school district;

2. "Campus police officer" means an individual holding a commission from and employed by an institution of higher education or a public school district pursuant to the Oklahoma Campus Security Act, who may also be known as a "campus public safety officer";

3. "Commission" means a certificate of appointment by the governing board of an institution of higher education or a board of education of a public school district of an individual certified as a full-time police or peace officer pursuant to Section 3311 of Title 70 of the Oklahoma Statutes;

4. "Governing board" means the board of regents or trustees which determines management policy and has responsibility for the general government of an institution of higher education or the board of education of a public school district;

5. "Institution of higher education" means a college, university, higher educational center, or other constituent agency of The Oklahoma State System of Higher Education or a private college or university in this state whose accreditation is recognized by the Oklahoma State Regents for Higher Education pursuant to Section 4103 of Title 70 of the Oklahoma Statutes; and

6. "Public school district" means all free schools supported by public taxation and shall include K-12 schools and technology center schools. **(74-360.16)**

Section 1053. Campus Police - Jurisdiction.

A. The jurisdiction of campus police officers includes the campus and pursuant to an agreement authorized by this act, the highways, streets, roads, alleys, easements, and other public ways immediately adjacent to their campus and any other areas authorized by such agreement. This delineation of jurisdiction, however, shall not be understood as

limiting the completion of any necessary enforcement activities which began within these jurisdictions and are in compliance with the agreements made with the municipality or county sheriff pursuant to this act. In the absence of an agreement, only those law enforcement activities which began on campus may be completed off campus and such activities with the local law enforcement agency having jurisdiction in that off campus area. In addition, a campus police officer shall have jurisdiction in other locations pursuant to an agreement authorized by this act. Such agreement may authorize the chief administrative officer of the law enforcement agency to request assistance pursuant to this act, shall have the same powers, liabilities, and immunities as sheriffs or police officers within their jurisdiction.

B. As limited by law, the provisions of this section, and the governing board, a CLEET certified campus police officer shall have the authority to enforce:

1. State criminal statutes;

2. Municipal ordinances, if authorized by an agreement with the municipality; and

3. Rules and regulations of the school or institution of higher education employing such campus police officer.

C. As limited by law, the provisions of this section, and the governing board, the campus police department shall have the same authority as a municipal police department.

D. Campus police departments formed by private institutions of higher education pursuant to this act shall be deemed to be public agencies in the State of Oklahoma for the limited purposes of enforcing the criminal statutes of Oklahoma and making agreements with local law enforcement agencies or political subdivisions of the state pursuant to this act. **(74-360.17)**

> A campus police officer acting within his capacity as a police officer may not validate an invalid arrest outside of his or her jurisdiction under the theory that it is a "citizen's arrest," however, such an arrest may be valid if it comports with the agreement between the city and the campus police. *Simic v. State ex rel. Dept. of Public Safety,* 2006 OK CIV APP 8, 129 P.3d 177
>
> Absent appropriate contractual authorization according to the statue, an officer has no authority to complete enforcement activities outside his jurisdictional boundaries. *Ward v. State ex rel. Dept. of Public Safety,* 2006 OK CIV APP 1. 127 P.3d 643

Section 1054. Authorization to Establish Campus Police Departments.

A. Governing boards of institutions of higher education and boards of education of public school districts are authorized to establish campus police departments pursuant to the provisions of the Oklahoma Campus Security Act. These boards may employ and commission campus police officers and may designate uniforms, badges and insignia to be worn by such officers and displayed on vehicles or other equipment of the department. Campus police departments shall use the following words or phrases, alone or in any combination, in conjunction with the uniform, badges, insignia, or on vehicles utilized by these departments: university police, university public safety department, campus police department, campus police officer, campus public safety department, campus public safety officer, or any standardized title such as director, chief, major, captain, lieutenant, sergeant, or corporal. Upon appointment, each such officer shall be given a written commission, with a photo identification, evidencing the officer's appointment and authority. The form of this commission shall be prescribed by the governing boards specified in this act. Persons employed by a governing board which has established a campus police department but who are not campus police officers shall not be permitted to wear uniforms, badges or insignia specified in this subsection or receive commissions or photo identification of the type provided campus police officers.

B. The commission of a campus police officer may be suspended or revoked by the governing board for any reason. Such commission also may be suspended or revoked by the district attorney in whose district the officer is employed for cause related to the campus police officer's ability to exercise the powers of such commission in the interest of public security or suspended or revoked by the district attorney upon conviction of the campus police officer for larceny, theft embezzlement, false pretense, fraud, any nonconsensual sex offense, any offense involving a minor as a victim, any offense involving the possession, use, distribution or sale of a controlled dangerous substance, or any offense involving a firearm. The commission of a campus police officer convicted of a felony or of a crime involving moral turpitude shall be revoked by the district attorney upon conviction. The commission of a campus police officer no longer employed by the governing board, or its representative, at the time of cessation of said employment. When

a commission is revoked or relinquished, the campus police department shall take possession of all campus police officer insignia, badges, identification cards and weapons issued to the officer. A person who fails to relinquish said insignia, badges, identification cards or weapons, upon conviction, shall be deemed guilty of a misdemeanor and shall be punished by the imposition of a fine of not more than One Thousand Dollars ($1,000.00) or by imprisonment in the county jail for not to exceed one (1) year, or by both such fine and imprisonment.

C. Governing boards shall notify the Council on Law Enforcement Education and Training (CLEET) when an officer is commissioned or a commission is relinquished or revoked. The governing boards shall provide CLEET with all information regarding commissioned officers requested by CLEET.

D. A campus police officer employed pursuant to the Oklahoma Campus Security Act shall not be able to participate in either the Oklahoma Police Pension and Retirement System or the Oklahoma Law Enforcement Retirement System, unless otherwise entitled to by law. **(74-360.18)**

Section 1055. Other Law Enforcement and Security Personnel.

Whether or not governing boards establish campus police departments pursuant to the Oklahoma Campus Security Act, nothing in this act shall be construed as prohibiting governing boards from:

1. Employing personnel licensed pursuant to the Oklahoma Security Guard and Private Investigator Act, Section 1750.1 et seq. of Title 59 of the Oklahoma Statutes to be employed as campus security;

2. Contracting with municipalities to authorize their local municipal police department, or with retired commissioned police officers to provide security services; or

3. Providing courtesy patrols, watchmen, traffic control personnel or other persons for the performance of safety or security or security duties for which such personnel are trained. **(74-360.19)**

Section 1056. Mutual Assistance Agreements.

Municipalities and county sheriff departments having overlapping or concurrent jurisdiction with a proposed campus police department, may enter into agreements with the proposed campus police department recognizing jurisdictional boundaries and providing for mutual assistance. Any such agreements shall be executed by the governing boards of the educational institution and the governing body of the municipality or sheriff, and shall not serve to prevent other law enforcement agencies from having concurrent or overlapping jurisdiction. Nothing in this act or any action pursuant to this act shall be deemed to create an agent-principal relationship between any campus police officer and any municipality or county. **(74-360.20)**

Section 1057. Miscellaneous Provisions.

A. Criminal fines, penalties, fees or penalty assessments imposed by a municipal or district court pursuant to state law or municipal ordinance as the result of an arrest or a citation issued by an officer commissioned pursuant to this act shall be collected and distributed as required by law.

B. The district attorney of the district where the unlawful conduct is alleged to have taken place shall have authority to prosecute such offense upon complaint being signed by a campus police officer commissioned pursuant to this act. Any municipal ordinance offense shall be prosecuted in a municipal court.

C. A campus police department or any officer thereof enforcing state law or municipal ordinance as authorized by the Oklahoma Campus Security Act shall not be deemed to be acting under the authority of any political subdivision of the state, except the governing board establishing the department or commissioning the officer if such governing board is the governing board of an institution in The Oklahoma State System of Higher Education or is a school district. **(74-360.21)**

Section 1058. Community Youth Development Act.

This act shall be known and may be cited as the "Community Youth Development Act". **(10-601.61)**

Section 1059. Purpose of Act.

A. The Legislature recognizes that the economic cost of crime to the state and communities within this state continues to drain existing resources, and the cost to victims, both economic and psychological, is traumatic and tragic.

1. Recognizing that many adults in the criminal justice system were once delinquents in the juvenile justice system, the Legislature also recognizes that the most effective crime and delinquency prevention programs are programs that not only provide children and youth with positive activities, opportunities and successes, but also meet local community needs and have substantial community involvement and support.

2. It is the belief of the Legislature that the best investment of scarce resources available to combat crime is to counteract the negative social and economic factors that contribute to criminal and delinquent behavior by engaging children and youth, at an early age, in such positive programs and opportunities at the local school and local community level.

B. Therefore, for the purpose of reducing the likelihood of later involvement in criminal or delinquent activities, the intent of the Legislature in enacting the Community Youth Development Act is to provide for school, school-related and after-school programs for children and youth and their families who live in at-risk school districts, neighborhoods and communities. **(10-601.62)**

Section 1060. Definitions.

For the purposes of the Community Youth Development Act:

1. "Community children and youth development programs and delinquency prevention and early intervention programs and activities" includes but is not limited to the following for participating youth and their families:

a. intensive school and school-related programs, such as tutoring and other educational services,

b. vocational training and counseling,

c. employment services,

d. counseling services, such as family counseling, mental health counseling, substance abuse outpatient treatment and education,

e. recreational and cultural opportunities including but not limited to sports, games, music, art and similar activities, and

f. neighborhood development programs, including but not limited to neighborhood mediation programs for the resolution of disputes involving children and youth, mentor or big brother and big sister programs, and voluntary community service programs for children and youth; and

2. "School, school-related or after-school programs and activities" means community children and youth development programs and delinquency prevention and early intervention programs and activities that occur during and outside of regular school hours. **(10-601.63)**

Section 1061. Duties of Commission on Children and Youth.

A. From funds appropriated or otherwise available for the purpose of implementating the Community Youth Development Act, the Oklahoma Commission on Children and Youth shall:

1. Issue requests for proposals and contract with eligible entities for community children and youth development programs and delinquency prevention and early intervention programs; and

2. Provide information and technical assistance to school districts, neighborhood and community organizations, and agencies within the children and youth service system, as that term is defined by Section 600 of Title 10 of the

Oklahoma Statutes, for the purpose of assisting them to make application for federal and private grants for community children and youth development programs and delinquency prevention and early intervention programs.

B. The Commission, with the assistance of and information provided by the Department of Human Services, the Oklahoma State Bureau of Investigation, and the Department of Commerce, shall establish eligibility criteria for identifying neighborhoods, school districts, communities and specific areas within school districts and communities having crime rate, economic or other demographic characteristics recognized as indicators of distressed areas. The Department of Human Services, the statutorily created juvenile bureaus, the Oklahoma State Bureau of Investigation and the Department of Commerce shall provide the Commission with information and assistance, as requested by the Commission, for the purpose of establishing the criteria required by this subsection. **(10-601.64)**

Section 1062. Implementation of Act.

A. The Commission on Children and Youth shall establish the proposal submission procedures and criteria and shall promulgate rules as necessary for the implementation of the Community Youth Development Act.

B. In order to be eligible for a contract pursuant to the Community Youth Development Act the proposal, at minimum, shall:

1. Meet the eligibility criteria established by the Commission;

2. Be a joint proposal made by a school district, neighborhood organization, municipality or county and one or more agencies or organizations within the children and youth service system. If a school district is not a joint participant in the proposal, the proposal shall document and describe the active participation in and support of the local school district in the program and activities for which the proposal is submitted;

3. Be for programs and activities for children not less than six (6) years of age or more than nineteen (19) years of age, or in grades one through twelve, whichever is applicable;

4. Describe the respective roles and responsibilities for the administration and operation of the program and activities, including but not limited to the designation of the entity responsible for the receipt and expenditure of any funds awarded pursuant to the Community Youth Development Act;

5. Include a match for the costs of the proposed program from the local school or other entity submitting the proposal. The match may be monetary or may be an in-kind match;

6. Specifically identify the area within a school district or community or the neighborhood where the programs and activities will be implemented;

7. Describe how the program will coordinate and cooperate with programs and services administered by the Department of Human Services, the State Department of Education, and other state or local agencies, agencies within the children and youth service system and courts and law enforcement, as appropriate for the proposed program;

8. Provide the program and activities on site in a school, community center, or similar location within the identified area of the school district or community; and

9. Include face-to-face contact with the parents, guardians or custodians of youth participating in the program and visits to the homes of such youth as an integral part of the programs and activities for which the proposal is submitted.

C. The Commission on Children and Youth shall evaluate at least annually each entity which receives a contract pursuant to the Community Youth Development Act. The evaluation report shall document the extent to which the program objectives have been met, as well as other information deemed necessary or appropriate by the Commission. Each entity receiving a contract pursuant to the Community Youth Development Act shall submit information to the Commission as required by the Commission. **(10-601.65)**

Section 1063. Oklahoma Certified Healthy Schools Act.

A. This section shall be known and may be cited as the "Oklahoma Certified Healthy Schools Act".

B. The State Department of Health shall establish and maintain a program for the voluntary certification of schools that promotes wellness, encourages the adoption of healthy behaviors, and establishes safe and supportive environments.

C. There is hereby created the Oklahoma Healthy Schools Advisory Committee. The advisory committee shall consist of the following members:

1. A representative from a statewide nonprofit and nonpartisan organization that seeks to foster collaboration and encourage prohealth initiatives in schools, to be appointed by the Speaker of the Oklahoma House of Representatives;

2. A representative from a statewide nonprofit and nonpartisan organization that seeks to foster collaboration and encourage prohealth initiatives in schools, to be appointed by the President Pro Tempore of the State Senate;

3. Two representatives from an organization that seeks to involve communities and consumers in creating a healthier future, to be appointed by the State Commissioner of Health;

4. A representative from a statewide business organization, to be appointed by the Governor;

5. A representative from a statewide association of parents, teachers, and students, to be appointed by the State Superintendent of Public Instruction;

6. A representative from a statewide association that provides training and information services to school board members, to be appointed by the Speaker of the Oklahoma House of Representatives;

7. A registered dietician, to be appointed by the President Pro Tempore of the State Senate; and

8. A school nutritionist, to be appointed by the Governor.

D. Members of the Committee shall serve at the pleasure of the appointing authority. Vacancies in a position shall be filled in the same manner as the original appointment.

E. The Committee shall hold an organizational meeting not later than November 30, 2010.

F. The Committee shall select from among its membership a chair and cochair.

G. A quorum of the members present at a meeting of the Committee shall be sufficient to conduct any business or to take any action authorized or required.

H. Travel reimbursement for members of the Committee who are legislators shall be made pursuant to Section 456 of Title 74 of the Oklahoma Statutes. Travel reimbursement for other members of the Committee shall be made by the respective appointing authorities pursuant to the State Travel Reimbursement Act.

I. The program shall recognize three levels of certification as follows:

1. Basic certification;

2. Merit certification; and

3. Excellence certification.

J. The Department, in collaboration with the Committee, shall develop criteria for certification, which, at a minimum, may include the following for each level of certification:

1. Basic certification: The school shall meet at least two criteria in each of the components of the Center for Disease Control and Prevention's Coordinated School Health Program model;

2. Merit certification: The school shall meet at least three criteria in each of the components of the Center for Disease Control and Prevention's Coordinated School Health Program model; and

3. Excellence certification: The school shall meet at least four criteria in each of the components of the Center for Disease Control and Prevention's Coordinated School Health Program model.

K. Subject to available funding specifically appropriated for this purpose, the Department may provide a monetary reward to schools that earn certification as follows:

1. Basic certification: Two Thousand Five Hundred Dollars ($2,500.00);

2. Merit certification: Five Thousand Dollars ($5,000.00); and

3. Excellence certification: Ten Thousand Dollars ($10,000.00).

L. Schools that obtain a reward pursuant to subsection N of this section shall use the funds for the enhancement of wellness activities and the promotion of healthy environments. Such activities may include, but are not limited to:

1. Improving playgrounds;

2. Purchasing sports equipment; and

3. Equipping school kitchens for healthy cooking.

M. The Department shall develop an online application form for schools seeking to become an Oklahoma Certified Healthy School.

N. The State Board of Health may promulgate rules as necessary to implement the provisions of this section.

O. The Committee shall terminate by operation of law on October 31, 2015. **(63-2061)**

APPENDIX A

Senate Bill No. 206

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

A. There is hereby created until November 1, 2011, the P-20 Council Task Force. The task force shall study the feasibility, value and structure of a P-20 council or educational partnership that would assure a seamless system of education that maximizes achievements of all students from early childhood through elementary, secondary, postsecondary and/or career technology education.

B. The task force shall be composed of nine (9) members as follows:

1. Secretary of Education or designee;

2. State Superintendent of Public Instruction or designee;

3. Chancellor of The Oklahoma State System of Higher Education or designee;

4. State Director of the Oklahoma Department of Career and Technology Education or designee;

5. Chair of the Senate Education Committee;

6. Chair of the House of Representatives Common Education Committee;

7. Chair of the House of Representatives Higher Education and Career Tech Committee;

8. Chair of the Senate Education Appropriations subcommittee; and

9. Chair of the House Education Appropriations and Budget subcommittee.

C. The Secretary of Education, the State Superintendent of Public Instruction, the State Director of the Oklahoma Department of Career and Technology Education and the Chancellor of The Oklahoma State System of Higher Education shall serve jointly as the cochairs of the task force.

D. A quorum of the task force shall be required in order for any final action of the task force. For purposes of this section five members shall constitute a quorum.

E. The task force may meet as often as may be required in order to perform the duties imposed upon it.

F. The meetings of the task force shall be subject to the Oklahoma Open Meeting Act.

G. Members of the task force shall receive no compensation or travel reimbursement for their service.

H. The State Department of Education shall provide primary staff support with the State Regents for Higher Education and Oklahoma Department of Career and Technology Education providing assistance.

I. The task force shall report its findings, including any legislative recommendations, to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Governor by December 31, 2011.

Note: Enacted by SB 206, Sec. 1 of the 2011 Reg. Sess.

APPENDIX B

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