

ENROLLED HOUSE  
BILL NO. 1313

By: Smith (Dale), Erwin,  
Fields, Stites and Reese  
of the House

and

Williams (Penny) and  
Capps of the Senate

An Act relating to schools; amending 70 O.S. 1991, Sections 5-129, 5-129.1, 5-107A, as amended by Section 1, Chapter 254, O.S.L. 1992, 7-101, as amended by Section 11, Chapter 324, O.S.L. 1992, and 7-105 (70 O.S. Supp. 1992, Sections 5-107A and 7-101), which relate to school activity funds, certain exemptions, district boards of education, school district annexation, and school consolidation; authorizing certain expenditures from school activity funds relating to student and sponsor travel; requiring certain receipts; providing certain exemptions from school activity fund requirements; clarifying computation of size of district board of education for certain purposes; allowing boards of education to increase size of board under certain conditions; providing for appointment of certain board positions; providing for abolition of certain board positions; and declaring an emergency.

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

SECTION 1. AMENDATORY 70 O.S. 1991, Section 5-129, is amended to read as follows:

Section 5-129. A. The board of education of each school district shall exercise control over all funds on hand or hereafter received or collected, as herein provided, from student or other extracurricular activities 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 daily; 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, 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 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.

All other income, revenue, deposits or collections of any nature, including, but not limited to, Indian education support funds, laboratory fees, fees for the use of equipment owned or rented by the school district, deposits or assessments for breakage or supplies used in instructional courses, sale, exchange, lease, or rent of property, supplies or products originally acquired from funds belonging to the school district or through the management, use or production of property belonging to the school district, shall be deposited in accordance with the provisions of Section 335 of Title 62 of the Oklahoma Statutes.

C. The board of education of such 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.

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:

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 or of the State of Oklahoma is pledged;

2. Certificates of deposits of banks when such certificates of deposits are secured by acceptable collateral as in the deposit of other public monies;

3. In 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 said investments may be placed in the general fund of the governmental subdivision to be used for general governmental operations; or

4. Interest-bearing checking accounts.

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.

SECTION 2. AMENDATORY 70 O.S. 1991, Section 5-129.1, is amended to read as follows:

Section 5-129.1 A. Those funds which are collected by organizations chartered by the Oklahoma Congress of Parents and Teachers shall be exempted from the provisions as outlined in Section 5-129 of ~~Title 70 in the Oklahoma Statutes~~ this title.

B. Those funds which are collected by Junior Achievement programs shall be exempt from the provisions as outlined in Section 5-129 of this title.

SECTION 3. AMENDATORY 70 O.S. 1991, Section 5-107A, as amended by Section 1, Chapter 254, O.S.L. 1992 (70 O.S. Supp. 1992, Section 5-107A), is amended to read as follows:

Section 5-107A. The following provisions and the provisions of Sections 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 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	7	4
3. districts having a nine-member board unless an election is conducted pursuant to subsection C of this section	9	3

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 (1,000) 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; provided, if the member still resides within the school district to which board that person was elected, the office shall not become vacant and the member may serve the remainder of the term to which the person was elected; 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 a nomination election in which the electors of each board district in which a term is expiring or in which a vacancy exists shall select two (2) nominees from among the candidates for board member to represent the board district,
- b. If, in the nominating election, one candidate has a majority of all votes cast, then a general 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 nominees for the board district in the general election, and
- c. At the general election, all of the electors of the board district shall select one of the two nominees as the member of the board of education representing the board district.

C. Until January 1, 1993, any nine-member board shall have the option of reducing its board to a seven- or five-member board 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. 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. The 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 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 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.

The terms of office of the members of a nine-member board of education shall be staggered, with three members being elected in 1991, three members being elected in 1992 and three members being elected in 1993, and shall commence on the first regular, special or emergency school board meeting after the member has been certified as elected. Upon reduction of a nine-member board pursuant to subsection C of this section, the terms of the five-member or seven-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 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.

SECTION 4. AMENDATORY 70 O.S. 1991, Section 7-101, as amended by Section 11, Chapter 324, O.S.L. 1992 (70 O.S. Supp. 1992, Section 7-101), is amended to read as follows:

Section 7-101. A. 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 county superintendent of schools, 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 county or state superintendent of schools 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 county or state superintendent of schools for annexation that is signed by a majority of the school district electors in the school district proposed to be annexed, 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 schools may require.

C. Annexation elections held pursuant to this section shall be conducted pursuant to the following procedures:

1. Such election shall be held within sixty (60) days after the county superintendent of schools 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 county superintendent of schools in the same manner as notice of special elections of the school district electors of school districts is given, provided, that the county superintendent of schools 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.

Provided that, 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 county superintendent of schools 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 hereinbefore provided, the county superintendent of schools 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 county superintendent of schools 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 county superintendent of schools 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 county superintendent of schools. 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 shall have the option of temporarily increasing the number of board positions by two positions upon the effective date of the annexation. The temporary

positions shall be filled by appointment by the board of the district to which the territory was annexed. The temporary positions shall be abolished two (2) years from the effective date of annexation.

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.

7. If the territory proposed to be annexed is situated in more than one county, the petition or resolution shall be filed with the county superintendent of schools of the county in which the largest part of such territory lies, and he shall call the annexation election and perform the other duties required herein of the county superintendent of schools.

SECTION 5. AMENDATORY 70 O.S. 1991, Section 7-105, is amended to read as follows:

Section 7-105. 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.

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.

Provided 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. Provided, an election for such purpose shall be held either upon:

1. a petition for consolidation, signed by forty percent (40%) of the school district electors of each school district included in the proposed 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, which 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, 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, the State Board of Education shall declare the participating school districts dissolve and the new school district established, and the newly formed district shall thereupon be governed by the provisions of the Oklahoma School Code. Provided, the State Superintendent of Public Instruction or his 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 his 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. 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 in accordance with law.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 5th day of April,  
1993.

Speaker of the House of  
Representatives

Passed the Senate the 15th day of March, 1993.

President of the Senate