

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

HOUSE BILL NO. 1873

By: Hamilton of the House

and

Haney of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to the State Board of Education; providing for amount to be credited against employee contribution amounts for certain members; prescribing credit amounts; providing for division of amounts into monthly installments; providing for retention of certain amounts by Teachers' Retirement System of Oklahoma; requiring certain employers to make payment of additional compensation to employees; providing for applicable taxes; providing additional compensation not regular annual compensation for retirement purposes; providing additional compensation not treated as minimum salary for certain purposes; prescribing procedures for preparation of payroll; requiring certain employers to make adjustments to deductions from gross salary paid; providing for applicable taxes; providing for treatment of certain credited amounts based upon private letter ruling determination by Internal Revenue Service; requiring Teachers' Retirement System, State Department of Education and Department of Vocational and Technical Education to prepare certain instructional material; providing for additional material based upon outcome of private letter ruling; requiring Teachers' Retirement System of Oklahoma to request private letter ruling from Internal Revenue Service; providing for treatment of credit amount with respect to employee contributions contingent upon outcome of letter ruling request; providing for adjustment of payroll records; making provisions contingent upon enactment of Enrolled House Bill No. 1336 of the 1st Session of the 46th Oklahoma Legislature; making provisions contingent upon enactment of certain provision of Enrolled House Bill No. 1872 of the 1st Session of the 46th Oklahoma Legislature; amending Section 6, Chapter 215, O.S.L. 1996 (70 O.S. Supp. 1996, Section 18-201.1), which relates to the State Aid Formula; adding certain grade level weight for out-of-home placement; stating eligibility for out-of-home placement pupil weight; providing criteria for claiming weight; modifying calculation of projected per pupil revenue; providing for codification; providing for noncodification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 17-108.2 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. For the plan year beginning July 1, 1997, and ending June 30, 1998, a teacher employed by any school district or employed by a vocational-technical school district who qualifies for a minimum salary pursuant to the schedule contained in Section 18-114.7 of Title 70 of the Oklahoma Statutes, 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 Title 70 of the Oklahoma Statutes, an annual amount based upon qualifying years of service and a percentage of the applicable minimum salary amount as follows:

YEARS OF SERVICE	PERCENTAGE OF MINIMUM SALARY (BACHELOR'S DEGREE)	CREDIT AMOUNT
0	0.25%	\$60.15
1	0.41%	\$103.41
2	0.57%	\$145.65
3	0.73%	\$188.15
4	0.89%	\$232.34
5	1.05%	\$277.60
6	1.21%	\$322.57
7	1.37%	\$369.78
8	1.53%	\$416.34
9	1.69%	\$465.49
10	1.85%	\$513.65
11	2.01%	\$564.75
12	2.17%	\$614.50
13	2.33%	\$667.55
14	2.49%	\$716.15
15	2.65%	\$770.94

16	2.81%	\$826.81
17	2.97%	\$883.76
18	3.13%	\$941.75
19	3.29%	\$1,000.82
20	3.45%	\$1,060.94
21	3.61%	\$1,122.13
22	3.77%	\$1,184.38
23	3.93%	\$1,247.70
24	4.09%	\$1,312.07
25 or more	4.25%	\$1,377.51

B. The state shall pick up and pay the annual amount prescribed by subsection A of 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, 1998, the amounts prescribed by subsection A, and appropriated to the Teachers' Retirement System pursuant to Sections 7 and 52 of Enrolled House Bill No. 1872 of the 1st Session of the 46th Oklahoma Legislature, 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 Title 70 of the Oklahoma Statutes for a member who is eligible for the credit amount prescribed by subsection A of this section for the fiscal year beginning July 1, 1997, 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. If an eligible member is hired by a school district or a vocational-

Req. No. 10170Page 3

technical 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. The amount required to be added to the compensation of the eligible member pursuant to this subsection shall be subject to any applicable federal or state taxes upon the additional income. The amount by which the employee contribution paid by the employer is reduced as a result of the credit prescribed by subsection A of this section shall be treated by the employer as an amount which does not qualify for the "picked up" contribution provisions of 26 U.S.C., Section 414(h) (2) and shall be treated as subject to all applicable federal taxes until the private letter ruling described by Section 2 of this act provides for a favorable treatment. The amount required to be added to the compensation of the eligible member pursuant to this subsection shall not be treated as regular annual compensation for purposes of Section 17-116.2 of Title 70 of the Oklahoma Statutes or as salary or fringe benefits for purposes of determining the minimum salary pursuant to the requirements of Section 18-114.7 of Title 70 of the Oklahoma Statutes or for purposes of meeting the requirements of any locally adopted salary schedule. 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.

E. If an employing school district has contractually committed to deduct employee contributions required by Section 17-116.2 of Title 70 of the Oklahoma Statutes 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.

F. If the Teachers' Retirement System of Oklahoma, pursuant to an official action of the Board of Trustees of the System, certifies to the Department of Education that the Internal Revenue Service has issued a favorable ruling in response to the request described in Section 2 of this act regarding the treatment of the credited amount prescribed by subsection A of this section as a contribution eligible for the treatment provided by Section 414(h)(2) of the Internal Revenue Code of 1986, as amended, the amount credited against the employee contribution requirement as prescribed by subsection A of this section shall be reflected in the payroll and accounting records of the employing school district or vocational-technical district as a contribution "picked up" pursuant to the provisions of Section 414(h)(2) of the Internal Revenue Code of 1986, as amended, and the amount so credited shall be excluded from "gross wages" paid to the eligible member when the statement of taxable wages is prepared for the employee as required pursuant to the Internal Revenue Code.

G. The State Department of Education and the Department of Vocational-Technical Education, in cooperation with the Teachers' Retirement System of Oklahoma, shall prepare an instructional brochure which explains the obligations of the employing school district or vocational-technical school district, respectively,

Req. No. 10170Page 5

regarding the employee contributions "picked up" pursuant to Section 414(h)(2) of the Internal Revenue Code of 1986, as amended. The instructional brochure shall contain an example of the computation of the employee contribution rate upon the applicable portion of salary for hypothetical employees eligible for the credit amount and the computation of the employee contribution rate upon amounts of salary in excess of the minimum salary schedule amount.

H. If the private letter ruling described by Section 2 of this act is favorable and supports the "picked up" treatment of the employee contribution credit amount, the brochure, or a supplement to the brochure, shall include a statement that an employer described by:

1. Subsection D of this section is obligated to treat the credit amount as a "picked up" contribution pursuant to Section 414(h)(2) of the Internal Revenue Code of 1986, as amended, both for purposes of payroll accounting and for purposes of preparing statements of gross wages earned by the employee as required by the Internal Revenue Code. Until the letter ruling is issued, employers responsible for crediting the amounts prescribed by this act shall treat the credit amount as if it did not qualify for the treatment provided by Section 414(h)(2) of the Internal Revenue Code of 1986, as amended, and shall compute federal and state withholding taxes, or other applicable taxes, accordingly; or

2. Subsection E of this section is obligated to treat the credit amount as a "picked up" contribution pursuant to Section 414(h)(2) of the Internal Revenue Code of 1986, as amended, both for purposes of payroll accounting and for purposes of preparing statements of gross wages earned by the employee as required by the Internal Revenue Code. Until the letter ruling is issued, employers responsible for crediting the amounts prescribed by this act shall treat the credit amount as if it did not qualify for the treatment provided by Section 414(h)(2) of the Internal Revenue Code of 1986, as amended, and shall compute federal and state withholding taxes, or other applicable taxes, accordingly.

SECTION 2. A. The Teachers' Retirement System of Oklahoma shall request a private letter ruling from the Internal Revenue Service to determine whether the amounts credited against the employee contribution amount for eligible members of the Teachers' Retirement System pursuant to provisions of subsection A of Section 1 of this act qualify as "picked up" contributions under Section 414(h)(2) of the Internal Revenue Code. The amounts prescribed by subsection A of Section 1 of this act shall be credited against the employee contribution amount and shall be reflected in the records of the Teachers' Retirement System and the employer as a contribution made on behalf of the eligible employee.

B. Final treatment of the credit amount as a contribution "picked up" pursuant to Section 414(h)(2) of the Internal Revenue Code of 1986, as amended, shall be contingent upon the issuance by the Internal Revenue Service of a private letter ruling that:

1. Unequivocally determines the amounts so credited against the employee contribution amount for eligible teachers qualifies in all respects as a "picked up" employee contribution for purposes of Section 414(h)(2), or any successor provision, of the Internal Revenue Code of 1986, as amended; and

2. The amount so credited will be exempt from federal income tax and in all respects will be treated in the same manner as all other employee contribution amounts for eligible members whether paid from the funds of the employer or effected through a reduction in the gross salary of the eligible member.

C. Upon the certification by the Board of Trustees of the Teachers' Retirement System of Oklahoma that the provisions of this section have been satisfied, the amounts prescribed by subsection A of Section 1 of this act shall be reflected in the records of the applicable employing districts and in the accounts maintained by the Teachers' Retirement System of Oklahoma for the eligible teachers as "picked up" contributions beginning with the first month following the month in which the certification is issued.

SECTION 3. The provisions of this act are contingent upon the enactment of Enrolled House Bill No. 1336 of the 1st Session of the 46th Oklahoma Legislature. If Enrolled House Bill No. 1336 of the 1st Session of the 46th Oklahoma Legislature is not enacted into law, no provision of this act shall become effective as law.

SECTION 4. The provisions of this act are contingent upon the enactment of Sections 7 and 52 of Enrolled House Bill No. 1872 of the 1st Session of the 46th Oklahoma Legislature. If the appropriation contained in Sections 7 and 52 of Enrolled House Bill No. 1872 of the 1st Session of the 46th Oklahoma Legislature is not enacted into law, no provision of this act shall become effective as law.

SECTION 5. AMENDATORY Section 6, Chapter 215, O.S.L. 1996 (70 O.S. Supp. 1996, Section 18-201.1), is amended to read as follows:

Section 18-201.1 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 4 18-200.1 of this ~~act~~ 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 4 18-200.1 of this ~~act~~ 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. 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~~ 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.	Early childhood programs	.5
b.	Kindergarten	1.3
c.	First and second grade	1.351
d.	Third grade	1.051
e.	Fourth through sixth grade	1.0
f.	Seventh through twelfth grade	1.2
g.	<u>Out-of-home placement</u>	<u>1.45</u>

Multiply the membership of each ~~grade~~ subparagraph of this paragraph by the weight assigned to such ~~grade~~ 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. No child for whom tuition is paid pursuant to the provisions of Section 1-114 of this title may be included in the membership count of the school district providing the early childhood program. 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 weights for that student.

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. Hearing Impaired	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

Req. No. 10170Page 10

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:  $529 \text{ minus the average daily membership divided by } 529 \text{ times } .2 \text{ times total average daily membership.}$

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 August 19, 1991, pursuant to the Oklahoma School Consolidation and Annexation Act shall have the weighted district size calculation for the two (2) 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 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

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.
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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.

~~Projected~~ 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 ~~current~~ State Aid Formula for the preceding year, net assessed valuation for the preceding calendar year times thirty-nine (39) mills, county revenues ~~of~~ excluding the county four-mills revenues for the second preceding year, other state appropriations for the preceding year and the collections for the ~~second~~ 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.

SECTION 6. NONCODIFICATION The provisions of Sections 2, 3 and 4 of this act shall not be codified in the Oklahoma Statutes.

SECTION 7. This act shall become effective July 1, 1997.

SECTION 8. 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.

46-1-10170 PC