

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

HOUSE BILL NO. 2433

By: Hager of the House

and

Williams of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An act relating to schools; amending 70 O.S. 1991,

Section 1-113, as last amended by Section 1,
Chapter 343, O.S.L. 1997 (70 O.S. Supp. 1997,
Section 1-113), which relates to residency for
educational purposes; adding exception for certain
foster homes; deleting requirement for emergency
transfer for certain students; providing
definitions for certain types of out-of-home
placements; modifying certain limitations for
education of therapeutic foster care children;
deleting obsolete provision for transfers;
modifying descriptions of out-of-home placement
entities; shortening certain period of notification
before educational services are required; excepting
certain types of placements; removing ability to
modify accreditation standards; modifying school
districts financial responsibility for certain
educational services; allowing contracting for
certain educational services in certain programs;

specifying certain details of contract; specifying certain school districts responsibilities; indemnifying certain school districts; amending 70 O.S. 1991, Section 13-114.3, as last amended by Section 12, Chapter 116, O.S.L. 1993 (70 O.S. Supp. 1997, Section 13-114.3), which relates to the Oklahoma Special Education Assistance Fund; deleting obsolete provisions; modifying eligibility criteria; authorizing State Department of Education to prorate certain funds; authorizing State Board of Education to promulgate rules for administration of the Oklahoma Special Education Assistance Fund; amending 70 O.S. 1991, Section 18-110, as last amended by Section 4, Chapter 343, O.S.L. 1997 (70 O.S. Supp. 1997, Section 18-110), which relates to adjustments in State Aid; modifying description of out-of-home placement entity; deleting provisions for billing-back for certain emergency transfers; amending Section 6, Chapter 215, O.S.L. 1996 (70 O.S. Supp. 1997, Section 18-201.1), as last amended by Section 5 of Enrolled House Bill No. 1657 of the 2nd Session of the 46th Oklahoma Legislature, which relates to pupil weights for State Aid purposes; changing weights for out-of-home placements; modifying terminology; repealing Section 34 of Enrolled House Bill No. 3213 of the 2nd Session of the 46th Oklahoma Legislature, which relates to pupil weights for State Aid purposes; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 70 O.S. 1991, Section 1-113, as last amended by Section 1, Chapter 343, O.S.L. 1997 (70 O.S. Supp. 1997, Section 1-113), is amended to read as follows:

Section 1-113. 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 ~~402~~ 7203 of Title 10 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 10 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 10 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 the state of Oklahoma; provided, a school

district may furnish educational services pursuant to contract as elsewhere provided by law.

C. ~~1. When a child is placed out of the child's home and outside the school district in which the parent, guardian, or person having custody resides, an emergency transfer shall be granted if the child is placed in a therapeutic foster home under the supervision of a state agency or a private licensed child-placing agency subject to the limitations provided in this subsection.~~

~~For purposes of this section a therapeutic foster home is defined as a foster home which has been certified as meeting the standards set by the Department of Human Services for therapeutic foster homes. The agency placing a child in a therapeutic foster home shall be responsible for notifying the receiving district of the legal residence of the child's parent or guardian. For the purpose of ensuring that a child placed in a therapeutic foster care home, as defined in Section 7203 of Title 10 of the Oklahoma Statutes, receives an appropriate education, no receiving school district shall be required to accept an emergency student transfer for enroll such a child if the transfer 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 accept student transfers for 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. Districts where the enrollment of therapeutic foster care home-placed children for the 1996-97 school year exceed the two percent (2%) limit shall be required to approve the emergency student transfers for those~~

~~therapeutic foster care children enrolled during the 1996-97 school year.~~

~~2. The district in which the child has legal residence for school purposes shall bear the financial responsibility as defined in Section 18-110 of this title for the child for whom an emergency transfer is granted pursuant to the provisions of this subsection.~~

D. When a child does not meet the criteria for residency provided in subsection A of this section and is placed in a ~~residential facility or treatment program or center, including the facility operated pursuant to Section 485.1 of Title 63 of the Oklahoma Statutes,~~ 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 7203 of Title 10 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 ~~facility or program~~ entity shall, if the child contends he or she resides in a school district other than the district where the ~~facility or program~~ entity is located, within seven (7) days of admittance, notify the school district in which the ~~out-of-home placement or treatment~~ 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 10 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 ~~a residential child facility or treatment program or center, including the facility operated pursuant to Section 485.1 of Title 63 of the Oklahoma Statutes, is located~~ 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 ~~facility or program~~ entity, ~~contract to~~ provide the educational services to which the children in the ~~facility or program~~ entity are entitled subject to the limitations provided in subsection ~~D~~ C of this section. No ~~individual or entity~~ person operating a ~~residential child facility or treatment program or center~~ such an entity may contract for the provision of educational services with any school district other than the school district in which the ~~facility or program~~ entity is located unless the school district in which the

~~facility or program~~ entity is located agrees in writing to allow another school district to provide the educational services.

2. Prior to location in a school district, the individual or ~~entity~~ agency operating a ~~residential facility or treatment program~~ an entity described in subsection D of this section which requires provision of educational services ~~for students~~ 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 ~~residents of the facility or participants in the program~~ students in the entity until at least ~~ninety (90)~~ 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 ~~subject to agreement of the operator of the facility or program and the local board of education.~~ No school district shall be responsible for any expenses for students in a ~~residential facility or treatment program~~ 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 ~~such~~ 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 (40) 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).

SECTION 2. AMENDATORY 70 O.S. 1991, Section 13-114.3, as last amended by Section 12, Chapter 116, O.S.L. 1993 (70 O.S. Supp. 1997, Section 13-114.3), is amended to read as follows:

Section 13-114.3 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. ~~Claims for the 1991-92 school year must be submitted on or before June 30, 1992. On or before September 1, 1992, the State Department of Education shall pay valid, timely submitted claims for the 1991-92 school year from the Oklahoma Special Education Assistance Fund. Claims for the 1992-93 school year shall be filed and paid quarterly, with the final claim filed no later than June 1, 1993, and paid no later than June 30, 1993, from the Oklahoma Special Education Assistance Fund.~~

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 ~~a foster care home, group home, residential hospital, shelter or independent living facility located in that school district by a state agency and a resident school district for the child cannot be determined~~ out-of-home placement in an entity described in subsection D of Section 1-113 of this title;

2. Has been previously institutionalized ~~and is eligible to receive funding for the children with multiple disabilities or trainable mental retardation and the Special Education Summer Program as defined in Section 18-109.5 of this title;~~ or

3. Requires services pursuant to an individualized education program (IEP) pursuant to the Individuals with Disabilities Education Act (IDEA), ~~P.L. No. 101-476,~~ which result in extraordinary costs to the ~~local~~ providing school district ~~and the child's parents, guardian, or person having the legal care and custody of the child holds legal residence in the district or~~ district of residence. The State Board of Education ~~shall~~ 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~~ 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 ~~whether a home district for a child can be determined and the process by which such determination is made~~ priorities in funding for students in this subsection.

SECTION 3. AMENDATORY 70 O.S. 1991, Section 18-110, as last amended by Section 4, Chapter 343, O.S.L. 1997 (70 O.S. Supp. 1997, Section 18-110), is amended to read as follows:

Section 18-110. A. If any district, or a 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 ~~the residential child facility or treatment program or center~~ 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. ~~1. If a public school district in this state provides educational services to a child who is in the district as a result of therapeutic foster care as provided in subsection C of Section 1-113 of this title, upon approval of an emergency transfer the providing district shall receive from the district in which the child has residence a fee in the amount of the per capita cost of the providing district for current expenditures for the education of such resident. The amount of the expenditures shall be determined based upon the cost of teachers, equipment, material, and other direct education and special education costs associated with the education of such child prorated by the number of days the child has been enrolled in the providing district.~~

~~2. Three (3) days within beginning to provide such services, the providing district shall send to the district of residence as defined in subsection A of Section 1-113 of this title, and to the Finance Division of the State Department of Education, an enrollment form which shall include an estimate of the number of school days such services are to be provided to said child and an itemized estimate of the cost per day of providing said services. The district of residence shall acknowledge receipt of the enrollment form within ten (10) days, notifying both the providing district and the Finance Division. If a dispute is anticipated, the providing district and the district of residence shall begin discussion of points in dispute. Immediately upon cessation of the provision of said services, the providing district shall send to the district of residence and to the Finance Division a final attendance report and an itemized claim for payment. Within sixty (60) days of receipt of the claim, the district of residence shall deliver payment to the~~

~~providing district and both districts shall immediately notify the Finance Division that payment has been made; provided, any unsettled disputes as to the appropriateness of the charges or the emergency transfer shall be referred within said sixty-day period to the Finance Division for resolution. Only upon verification that the payment has been received by the providing district shall the Finance Division credit to the district of residence the average daily membership (ADM) of the child or include the child in the average daily membership (ADM) of the district of residence for the days the child received services from the providing district. Further, if payment still has not been made within sixty (60) days from the time of resolution of the dispute by the Finance Division or one hundred twenty (120) days from the date of receipt of the original claim, whichever is later, the Finance Division shall settle the matter by withholding one hundred twenty percent (120%) of the entire amount of the claim from State Aid or other payments otherwise due the district of residence and transmitting such amount to the providing district. The State Department of Education is authorized to waive the twenty percent (20%) penalty above one hundred percent (100%) for late payment or nonpayment required in this subsection if, within its judgment, the determination of residency was delayed due to due process procedures regarding the individual education plan of a child.~~

~~E.~~ 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.

~~F.~~ 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. The 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 home 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 whenever it has transferred a student to another school district for purposes other than to acquire special education, but where the student is subsequently found to require such special education and related services, is determined to be eligible by the Special Education Division of the State Department of Education, and 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).

SECTION 4. AMENDATORY Section 6, Chapter 215, O.S.L. 1996 (70 O.S. Supp. 1997, Section 18-201.1), as last amended by Section 5 of Enrolled House Bill No. 1657 of the 2nd Session of the 46th Oklahoma Legislature, 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 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. 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.	Kindergarten	1.3
d.	First and second grade	1.351
e.	Third grade	1.051
f.	Fourth through sixth grade	1.0
g.	Seventh through twelfth grade	1.2
h.	Out-of-home placement	1.45
		<u>1.50</u>

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 weights 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 - ~~2.9~~ 3.0; for a center with eight (8) beds - ~~2.2~~ 2.3 and for a center with ten (10) beds - ~~1.74~~ 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.	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.	Tractable <u>Trainable</u>	
	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: $529 \text{ minus the average daily membership divided by } 529 \text{ times } .2 \text{ times total average daily membership.}$

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.

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 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 5. REPEALER Section 34 of Enrolled House Bill No. 3213 of the 2nd Session of the 46th Oklahoma Legislature, is hereby repealed.

SECTION 6. This act shall become effective July 1, 1998.

SECTION 7. 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.

46-2-11739

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