STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 901

By: Haney and Hobson of the Senate

and

Settle and Begley of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to the State Board of Education; amending Section 1 of Enrolled House Bill No. 2653 of the 2nd Session of the 47th Oklahoma Legislature; which relates to teacher salaries; requiring inclusion of fringe benefits for determination of salary increases; prohibiting certain method of providing for salary increases; amending 70 O.S. 1991, Section 5-135.2, which relates to reporting financial transactions; modifying reporting requirements; deleting obsolete language; amending 70 O.S. 1991, Section 18-109.5, as amended by Section 33, Chapter 246, O.S.L. 1998 (70 O.S. Supp. 1998, Section 18-109.5), which relates to definitions; modifying definition of bilingual; deleting obsolete language; amending 70 O.S. 1991, Section 18-116, which relates to forfeiture of state aid; requiring forfeiture of portion of State Aid for underpayment of teacher salaries; modifying sworn statement requirements; deleting obsolete language; amending Section 7, Chapter 380, O.S.L. 1998, as amended by Section 3, Chapter 334, O.SL. 1999 (70 O.S. Supp. 199, Section 26-105), which relates to flexible benefit allowances; updating fiscal year reference; increasing certain flexible benefit allowed; amending Section 44, Chapter 247, O.S.L. 1996, as last amended by Section 2, Chapter 216, O.S.L. 1999 (70 O.S. Supp. 1999, Section 1210.568), which relates to alternative education; modifying date by which schools must provide alternative education program; requiring certain alternative education programs in certain school districts; repealing Section 44, Chapter 247, O.S.L. 1996, as last amended by Section 49, Chapter 320, O.S.L. 1999 (70 O.S. Supp. 1999, Section 1210.568), which relates to alternative education; repealing Section 4, Chapter 334, O.S.L. 1999 (70 O.S. Supp. 1999, Section 26-108), which relates to increase in the flexible benefit allowance; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 1 of Enrolled House Bill No. 2653 of the 2nd Session of the 47th Oklahoma Legislature, is amended to read as follows

Section 1. The salary and fringe benefit level of state-paid certified personnel, as defined in Section 26-103 of Title 70 of the Oklahoma Statutes, employed by local public school districts, local area vocational-technical school districts, and the State Department of Rehabilitation Services who were employed in a public school district or state agency during the 1999-2000 school year, shall be increased by at least Three Thousand Dollars ($3,000.00) for the 2000-01 school year unless the hours or the duties of the employees are reduced proportionately. The salary increase provided for in this section shall be in addition to, and not as a replacement for, any portion of any salary level and fringe benefits which would have been received by a certified employee in the absence of this legislation and shall be in addition to the yearly step increase the certified employee receives pursuant to Section 18-114.7 of Title 70 of the Oklahoma Statutes. The salary increase provided for in this section shall not be contingent upon the school district having adopted or participating in a merit-based or incentive pay plan for certified personnel. A school district shall have the option of providing the salary increase to the superintendent of that school district. Funding for any salary for a superintendent given pursuant to this section shall be provided from local revenue.

An increase or reduction in fringe benefits may not be used to meet the requirements of the salary increase provided for in this section.

For certified personnel whose salary is funded partially by federal funds, the salary increase provided for in this section shall be prorated based on the percentage of the salary that is state funded.

For certified personnel who are employed for less than a full six-hour school day by any one or more school districts, the salary increase provided for in this section shall be prorated based on the number of hours worked by the certified employee.

SECTION 2. AMENDATORY 70 O.S. 1991, Section 5-135.2, is amended to read as follows:

Section 5-135.2 A. For the 1991-92 school year, school districts shall report financial transactions for all funds, except for the school activity fund, using the Oklahoma Cost Accounting System, as adopted by the State Board of Education pursuant to Section 5-135 of this title. Costs shall be reported by curricular subject area where applicable. For the 1992-93 school year and in each subsequent school year, school districts shall report financial transactions for all funds using the Oklahoma Cost Accounting System. Costs shall be reported by curricular subject area where applicable.

B. Beginning July 1, 1991, <u>and in each subsequent school year,</u> the State Department of Education shall reduce the monthly payment of a district's State Aid funds if, at the time of such payment, the district is not operating pursuant to ~~said system~~ <u>the Oklahoma Cost Accounting System</u>. The amount of the reduction shall be one percent (1%) for the first payment, two percent (2%) for the second payment, three percent (3%) for the third payment, four percent (4%) for the fourth payment, and five percent (5%) for each subsequent payment. The reduction may be waived by the State Board of Education if the district can demonstrate that failure to operate pursuant to ~~said~~ <u>such</u> system was due to circumstances beyond the control of the district and that every effort is being made by the district to operate pursuant to ~~said~~ <u>such</u> system as quickly as possible.

SECTION 3. AMENDATORY 70 O.S. 1991, Section 18-109.5, as amended by Section 33, Chapter 246, O.S.L. 1998 (70 O.S. Supp. 1999, Section 18-109.5), is amended to read as follows:

Section 18-109.5 A. ~~Prior to July 1, 1990, as used in Sections 18-109.3 and 18-109.4 of this title, and on and after July 1, 1990, as~~ As used in Sections 18-201 and 18-201.1 of this title:

1. "Vision impaired" means a visual impairment which, even with correction, adversely affects a child's educational performance;

2. "Children with learning disabilities" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, written or spoken, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or to do mathematical calculations. The term includes such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia;

3. "Deaf or hard-of-hearing" means a hearing impairment, whether permanent or fluctuating, which adversely affects a child's educational performance;

4. "Economically disadvantaged" means all children who qualify for free or reduced lunches~~. Provided, for the school year 1981-82, economically disadvantaged shall mean children who qualify and participate in a program for free or reduced lunches~~;

5. "Educable mentally handicapped" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the development period, which adversely affects a child's educational performance;

6. "Emotionally disturbed" means emotional problems preventing adjustment in regular class including:

a. an inability to learn which cannot be explained by intellectual, sensory or health factors,

b. an inability to build or maintain satisfactory interpersonal relationships with peers and teachers,

c. inappropriate types of behavior or feelings under normal circumstances,

d. a general pervasive mood of unhappiness or depression, or

e. a tendency to develop physical symptoms or fears associated with personal or school problems;

The term includes children who are schizophrenic. The term does not include children who are socially maladjusted, unless it is determined that they are seriously emotionally disturbed;

7. "Gifted" means identified students as outlined in Section 1210.301 of this title;

8. "Multiple handicapped" means concomitant impairments, such as mentally retarded/blind, mentally retarded/orthopedically impaired, and other combinations, the combination of which causes such severe educational problems that they cannot be accommodated in special education programs solely for one of the impairments. The term does not include deaf/blind children;

9. "Physically handicapped" means a severe orthopedic impairment or an autistic condition which is manifested by severe communication and other developmental and educational problems; or having limited strength, vitality or alertness, due to chronic or acute health problems such as a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes, which adversely affects a child's educational performance.

The term includes impairments caused by congenital anomaly, and impairments from other causes;

10. "Speech impaired" means a communication disorder, such as stuttering, impaired articulation, language impairment, or voice impairment, which adversely affects a child's educational performance;

11. "Trainable mentally handicapped" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the

development period, which adversely affects a child's educational performance;

12. "Deaf/Blind" means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that they cannot be accommodated in special education programs solely for deaf or blind children;

13. "Bilingual" means those students who have limited English speaking abilities or who come from homes where English is not the dominant language as reported on the ~~prior~~ current year application ~~for accrediting~~ for accreditation;

14. "Special Education Summer Program" means those summer school programs which school districts may provide for children who are severely or profoundly multiple-handicapped if their individualized education program states the need for a continuing educational experience to prevent loss of educational achievement or basic life skills. Any school district receiving funds for such special education summer programs shall provide services as provided in Section 13-101 of this title; and

15. "Optional Extended School Year Program" means the program defined in Section 1-109.1 of this title.

B. The State Board of Education is hereby authorized to modify and redefine by rule the definitions set out in this section whenever such modification is required to receive federal assistance therefor.

SECTION 4. AMENDATORY 70 O.S. 1991, Section 18-116, is amended to read as follows:

Section 18-116. A. Any school district which willfully operates school buses contrary to the rules and regulations prescribed by the State Board of Education shall forfeit its State Aid for the time of noncompliance. All State Aid funds shall be

withheld from any school district that does not comply with the standards of the State Board of Education for accrediting.

B. Any school district that willfully pays a teacher less than the minimum salary required by law including the five percent (5%) increments for special education or alternative education shall forfeit a portion of its State Aid equal to the amount that the teacher was underpaid. The amount to be forfeited shall be deducted from the State Aid payment following confirmation of the underpayment by the State Department of Education.

C. 1. No more than fifty percent (50%) of the funds apportioned to school districts under the provisions of this article shall be paid by the state unless and until there has been filed with the State Board of Education on forms prescribed by such Board an itemized sworn account of the expenditures and revenues of the school district during the next preceding fiscal year and a teacher personnel report for the current year.

2. All State Aid paid to a district whose district budget, as filed with the State Auditor and Inspector, shows that the appropriations of the district, plus the State Aid and other cash funds for which the district qualifies, will not enable it to maintain a full term of school as defined by this article, shall be credited against the State Aid of the district or districts to which the first district shall be annexed, if annexation is required. It is intended that the balance of any unexpended State Aid or other revenue originally allocated to an annexed district shall be paid to the receiving district.

~~C.~~ D. School districts receiving State Aid shall not spend any of these funds except by regularly issued warrants. The warrants shall be issued against properly approved encumbrances in the manner provided by law. All encumbrances shall be approved by the board of education of the school district at a regular meeting or a special meeting called for that purpose. All original copies of

encumbrances as represented by purchase orders, shall be filed in either numerical or alphabetical order, with the original paid invoice or invoices attached, accompanied by a signed and dated receiving copy verifying receipt of goods or services. It shall be unlawful to register or pay the warrant unless such warrant conforms to the statutes regulating the allowance and issuance thereof. Said treasurer shall purchase, by treasurer's check, all warrants issued.

~~D.~~ E. All board of education members, employees, or other officials of school districts required to make reports to the State Board of Education or other agencies under the provisions of this article, and all persons lawfully charged with the duty of making records of original entry, such as teachers' registers, transportation records, and financial records, which form the basis, in whole or in part, of said reports, shall exercise the highest degree of diligence, accuracy, and good faith in making said records and reports reflect the truth. Teachers' registers shall be marked daily in ink, by the teacher or principal in charge of rooms or groups of pupils. Provided, the State Board of Education may authorize alternate systems of accounting for pupils' attendance in districts using data processing methods.

~~E.~~ F. The State Board of Education shall revoke the certificate of any teacher, principal, or superintendent who knowingly or willfully violates any of the provisions of this article.

~~F.~~ G. Any official involved in the execution of this article who shall fail or refuse to carry out any of the provisions thereof shall be liable on his official bond, if any, for the monetary damages resulting from said failure to act, and in addition thereto shall be subject to removal from office for neglect of duty under the provisions of law relating to the removal of public officials.

~~G.~~ H. Any person or firm who shall knowingly or willfully violate any of the provisions of this article shall be guilty of a misdemeanor. Any public official or public employee violating any

of the provisions of this article shall be subject to the penalties for a misdemeanor and in addition thereto shall forfeit his position or office. Any officer or employee of the State Board of Education who knowingly or willfully apportions or disburses any monies appropriated by this article contrary to the provisions of this article shall be subject to the penalties for a misdemeanor and in addition shall forfeit his office or position.

~~H.~~ I. The State Board of Education shall prescribe the form of all records, reports and applications for State Aid necessary to the proper administration of this article, and it shall be the duty of all ~~county superintendents~~, school district superintendents, and boards of education of school districts to make such reports fully and completely at the time and in the manner prescribed by the State Board of Education. The State Board of Education shall also have authority and it shall be its duty to promulgate rules and regulations, not inconsistent with the provisions hereof, relative to the distribution of funds and for the administration of this article. Such regulations and rules shall apply alike to all school districts.

SECTION 5. AMENDATORY Section 7, Chapter 380, O.S.L. 1998, as amended by Section 3, Chapter 334, O.S.L. 1999 (70 O.S. Supp. 1999, Section 26-105), is amended to read as follows:

Section 26-105. A. At a minimum, the flexible benefit allowance may be used by a school district employee that is participating in the cafeteria plan to purchase major medical health care plan coverage offered by the school district through a cafeteria plan, or the excess flexible benefit allowance may be used to purchase any of the additional benefits offered by the school district. A school district employee that is not participating in the school district sponsored cafeteria plan, may elect to receive the flexible benefit allowance as taxable compensation.

B. Each eligible school district employee shall be credited annually with a specified amount as a flexible benefit allowance which shall be available for the purchase of benefits. The amount of the flexible benefit allowance credited to each eligible school district employee shall be communicated to the employee prior to the enrollment period for each plan year. For the fiscal year ending June 30, ~~2000~~ 2001, the flexible benefit allowance amount for certified personnel shall be no less than Fifty-seven Dollars and eighty-three cents ($57.83) per month. ~~Except as otherwise provided for in Section 4 of this act, for~~ For the fiscal year ending June 30, ~~2000~~ 2001, the flexible benefit allowance amount for support personnel shall be no less than ~~Eighty-seven Dollars and sixty-two cents ($87.62)~~ One Hundred Seventy Dollars and twenty-four cents ($170.24) per month.

C. If a school district employee who is participating in the cafeteria plan elects benefits whose sum total is less than the flexible benefit allowance, the employee shall receive any excess flexible benefit allowance as taxable compensation. Such taxable compensation shall be paid in substantially equal amounts each pay period over the plan year. On termination during a plan year, a participating school district employee shall have no right to receive any such taxable cash compensation allocated to the portion of the plan year after the termination of the employee.

D. Each school district employee shall make an annual election of benefits under the plan during an enrollment period to be held prior to the beginning of each plan year. The enrollment period dates will be determined annually and will be announced by the school district, providing the enrollment period shall end no later than thirty (30) days before the beginning of the plan year. Each such school district employee shall make an irrevocable advance election for the plan year or the remainder thereof pursuant to such procedures as the school district shall prescribe.

E. The school district shall prescribe the forms that school district employees shall be required to use in making their elections, and may prescribe deadlines and other procedures for filing the elections.

F. School district employees hired after the closing of the enrollment period shall be allowed to make an election as provided in this act.

G. A school district shall have the option of providing a flexible benefit allowance to the superintendent of that school district in an amount not more than the amount of the flexible benefit allowance established for certified personnel in subsection B of this section. Funding for the flexible benefit allowance for a superintendent shall be provided through local revenue.

SECTION 6. AMENDATORY Section 44, Chapter 247, O.S.L. 1996, as last amended by Section 2, Chapter 216, O.S.L. 1999 (70 O.S. Supp. 1999, Section 1210.568), is amended to read as follows:

Section 1210.568 A. Beginning with the first semester of the 1996-1997 school year, the State Board of Education shall implement a statewide system of alternative education programs which shall be phased-in within ~~five (5)~~ <u>six (6)</u> years. The statewide system shall include but not be limited to Alternative Approaches grant programs, funded pursuant to Section 1210.561 of this title, Alternative Education Academies pilot programs, funded pursuant to Section 1210.563 of this title and alternative academies or alternative programs implemented pursuant to this section. The funding for Alternative Education Academies pilot programs, after the third year of funding provided pursuant to Section 1210.563 of this title, shall be provided from funds appropriated for the statewide system.

B. Beginning with the first semester of the ~~2000-2001~~ <u>2001-2002</u> school year, all school districts of this state shall provide alternative education programs that conform to the requirements of

statutes and rules applicable to alternative education. A program shall:

1. Allow class sizes and student/teacher ratios which are conducive to effective learning for at-risk students;

2. Incorporate appropriate structure, curriculum, and interaction and reinforcement strategies designed to provide effective instruction;

3. Include an intake and screening process to determine eligibility of students;

4. Demonstrate that teaching faculty are appropriately licensed or certified teachers;

5. Demonstrate that teaching faculty have been selected on the basis of a record of successful work with at-risk students or personal and educational factors that qualify them for work with at-risk students;

6. Reflect appropriate collaborative efforts with state agencies and local agencies serving youth;

7. Provide courses that meet the academic curricula standards adopted by the State Board of Education and additional remedial courses;

8. Offer individualized instruction;

9. State clear and measurable program goals and objectives;

10. Include counseling and social services components with the provision that providers of services are not required to be certified as school counselors;

11. Require a plan leading to graduation be developed for each student in the program which will allow the student to participate in graduation exercises for the school district after meeting all of the graduation requirements of the school district;

12. Offer life skills instruction;

13. Provide opportunities for arts education to students, including Artists in Residence programs coordinated with the Oklahoma Arts Council;

14. Provide a proposed annual budget;

15. Include an evaluation component including an annual written self-evaluation;

16. Be appropriately designed to serve middle school, junior high school and secondary school students in grades six through twelve who are most at risk of not completing a high school education for a reason other than that identified in Section 13-101 of this title; and

17. Allow students in the alternative education program, who otherwise meet all of the participation requirements, to participate in vocational programs and extracurricular activities, including but not limited to athletics, band, and clubs.

C. The alternative education program of a school district shall be operational and serving students by September 15 of each school year.

D. Contingent upon the provision of appropriated funds designated for such purpose, all school districts in the state providing alternative education programs as required in subsection B of this section shall expand the programs to include middle school grade students. The program shall conform to the requirements of subsection B of this section.

E. Contingent upon the provision of appropriated funds designated for such purpose, each urban school district identified by the State Department of Education as having a high population of elementary grade students who are at-risk and in need of alternative education shall provide elementary level alternative education programs. The State Department of Education shall establish requirements for the programs. For purposes of this section, "urban

school district" means a school district with an average daily membership of thirty thousand (30,000) or more.

F. Each alternative education program of a school district shall receive funding based on the combined number of dropouts and students within the district who have been referred to a county juvenile service unit, a county juvenile bureau or who have been committed to the custody of the Office of Juvenile Affairs. Each alternative education program shall receive incentive funding as follows:

1. For the first year of operation, One Thousand Dollars ($1,000.00) per student;

2. For the second year of operation, Seven Hundred Fifty Dollars ($750.00) per student; and

3. For the third year of operation and each year thereafter, Seven Hundred Dollars ($700.00) per student.

No alternative education program which has received funding for a prior year shall receive less than a total of Ten Thousand Dollars ($10,000.00) per school year.

~~E.~~ G. By September 15 of each school year, all revenue received and expended for students participating in an alternative education program shall be reported to the State Department of Education by major object codes and by program classifications pursuant to the Oklahoma Cost Accounting System as adopted by the State Board of Education pursuant to Section 5-135 of this title. The school district shall be required to expend on each student participating in an alternative education program an amount equal to or greater than the average amount expended for instructional costs on each student in the school district who is not participating in an alternative education program.

~~F.~~ H. 1. The State Board of Education shall contract for technical assistance for operation of an Alternative Education Technical Assistance Center. The technical assistance provider

shall be an entity located in Oklahoma that has been officially recognized by the United States Department of Education to assess and facilitate dissemination of validated educational programs in Oklahoma. The technical assistance provider shall have priority, if its operations are deemed satisfactory by the State Board of Education and if funds are available, for annual renewal of the contract.

2. The duties of the technical assistance provider shall include, but shall not be limited to:

a. providing initial and ongoing training of personnel who will educate at-risk populations through alternative education programs,

b. providing technical assistance to school districts to enhance the probability of success of their alternative education programs,

c. evaluating state-funded alternative education programs,

d. reporting to the State Board of Education the evaluation results of state-funded alternative education programs, and

e. providing in-depth program analysis and evaluation of state-funded alternative education programs.

~~G.~~ I. All alternative education programs shall be subject to statutes and rules applicable to alternative education, including any exemptions from statutory or regulatory requirements authorized by statutes or rule.

~~H.~~ J. An alternative education program may be offered by an individual school district or may be offered jointly by school districts that have formed interlocal cooperative agreements pursuant to Section 5-117b of this title. Any school district submitting a plan for an alternative education program serving fewer than ten students shall enter into a cooperative agreement with

another school district to jointly provide the program unless the program has been granted a waiver from this requirement by the State Board of Education.

~~I.~~ K. Any materials or equipment purchased by a school district with revenue received for students participating in an alternative education program shall be used only in or directly for the alternative education program offered by the district or any subsequent alternative education program offered to students enrolled in that district. Such materials and equipment shall be made available exclusively to alternative education students during the hours that the alternative education program is operating; provided, the material or equipment may be used for other purposes when the alternative education program is not operating.

SECTION 7. REPEALER Section 44, Chapter 247, O.S.L. 1996, as last amended by Section 49, Chapter 320, O.S.L. 1999 (70 O.S. Supp. 1999, Section 1210.568), is hereby repealed.

SECTION 8. REPEALER Section 4, Chapter 334, O.S.L. 1999 (70 O.S. Supp. 1999, Section 26-108), is hereby repealed.

SECTION 9. This act shall become effective July 1, 2000.

SECTION 10. 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.

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