ENROLLED HOUSE
BILL NO. 1251

By: Boyd of the House

and

Henry of the Senate

An Act relating to schools; amending 70 O.S. 1991, Section 5-117, as last amended by Section 6 of Enrolled Senate Bill No. 694 of the 1st Session of the 47th Oklahoma Legislature, which relates to the powers and duties of school district boards of education; allowing boards of education to become a member of certain organizations or associations; allowing payment of certain fees, dues, and costs; allowing boards of education to prepare and distribute certain informational material; requiring discussion of findings of an audit with certain persons before public release; amending 62 O.S. 1991, Section 348.1, as amended by Section 10, Chapter 211, O.S.L. 1992 (62 O.S. Supp. 1998, Section 348.1), which relates to investment of funds; deleting school districts; amending 70 O.S. 1991, Sections 5-114 and 5-115, as amended by Section 11, Chapter 211, O.S.L. 1992 (70 O.S. Supp. 1998, Section 5-115), which relates to school district treasurers; deleting certain investment authority requirements; defining certain term; requiring investments to be made according to certain written investment policy; providing for provisions of written investment policy; requiring board to review investment performance; modifying certain investment option for investment account; adding certain investment options for investment account; authorizing the board of education to require the treasurer to complete certain training program; stating contents of training program; providing for codification; 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 5-117, as last amended by Section 6 of Enrolled Senate Bill No. 694 of the 1st Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 5-117. A. The board of education of each school district shall have power to:

1. Elect its own officers;

2. Make rules, not inconsistent with the law or rules of the State Board of Education, governing the board and the school system of the district;

3. Maintain and operate a complete public school system of such character as the board of education shall deem best suited to the needs of the school district;

4. Designate the schools to be attended by the children of the district;

5. Provide and operate, when deemed advisable, cafeterias or other eating accommodations, thrift banks or other facilities for the teaching and practice of thrift and economy, bookstores, print shops, and vocational and other shops;

6. Provide informational material concerning school bond elections and millage elections, including but not limited to all pertinent financial information relative to the bond issue, a statement of revenue sources necessary to retire proposed bonds, a statement of current bonded indebtedness of the school district, and a statement of proposed use of funds to be generated by the proposed bond issue. The informational material shall not contain the words "vote yes" or "vote no" or any similar words or statement any place on such informational material;

7. Purchase, construct or rent, and operate and maintain, classrooms, libraries, auditoriums, gymnasiums, stadiums, recreation places and playgrounds, teacherages, school bus garages, laboratories, administration buildings, and other schoolhouses and school buildings, and acquire sites and equipment therefor;

8. Have school district property insured;

9. Acquire property by condemnation proceedings in the same manner as land is condemned for railroad purposes. School district funds may be used to erect buildings on leased land on which other buildings have been erected prior to April 3, 1969, or on land which is leased from a governmental entity;

10. Lease real or personal property to the state or any political subdivision thereof for nominal cash consideration for so long as the use of the property by the lessee substantially benefits, in whole or in part, the same public served by the school district;

11. Dispose of personal or real property no longer needed by the district by sale, exchange, lease, lease-purchase, sale and partial lease back, or otherwise. Real property shall be conveyed pursuant to a public sale, public bid, or private sale, provided however, unless otherwise prohibited by law, the board of education of a consolidated or annexed school district may convey real property to a local political subdivision without consideration. Prior to the sale of any real property, the board of education shall have the real property appraised. The appraisal shall be confidential until the real property is sold. When the real property is sold the board of education shall make the appraisal available for public inspection. Prior to the conveyance of any real property by private sale, the board of education shall have offered the real property for sale by public sale or public bid.

Any conveyance of real property by private sale to a nonprofit organization, association, or corporation to be used for public purposes, unless for exchange, shall contain a reversionary clause which returns the real property to the board of education upon the cessation of the use without profit or for public purposes by the purchaser or the assigns of the purchaser;

12. Purchase necessary property, equipment, furniture, and supplies necessary to maintain and operate an adequate school system;

13. Incur all expenses, within the limitations provided for by law, necessary to perform all powers granted by the provisions of this section;

14. Contract with and fix the duties and compensation of physicians, dentists, optometrists, nurses, attorneys, superintendents, principals, teachers, bus drivers, janitors, and other necessary employees of the district. The board of education shall establish a written policy for reimbursement of necessary travel expenses of employees and members of the board. The written policy shall specify procedures containing documentation requirements equal to or greater than the requirements specified by law for state employees in the State Travel Reimbursement Act;

15. Pay necessary travel expenses and other related expenses of prospective employees for sponsored visits to the school district pursuant to a written policy specifying procedures containing documentation requirements equal to or greater than the requirements specified by law for state employees in the State Travel Reimbursement Act;

16. Provide for employees' leaves of absence without pay;

17. Exercise sole control over all the schools and property of the district, subject to other provisions of the Oklahoma School Code;

18. Allow district-owned school buses to be used for transportation of students from other districts or educational institutions while within the district on educational tours. This shall not restrict the authority of the board to authorize any other use of such buses which may now be permitted by law or rule of the State Board of Education;

19. Enter into contractual agreements with the board of trustees of a multicounty library system, as defined in Section 4-103 of Title 65 of the Oklahoma Statutes, a city-county library commission, as defined in Section 152 of Title 65 of the Oklahoma Statutes, or a rural single county library system, as defined in Section 1-104 of Title 65 of the Oklahoma Statutes, on such terms as may be mutually agreed, except no district board of education may enter into any agreement under which the library services for the school would be provided at any site other than the school site or which would result in library services that do not meet accreditation standards as required by law or rule; ~~and~~

20. Perform all functions necessary to the administration of a school district in Oklahoma as specified in the Oklahoma School

Code, and in addition thereto, those powers necessarily implied but not delegated by law to any other agency or official;

21. Become a member of and to pay the membership fees, dues, and other costs associated with membership in any organization which has as its goal the advancement of public education; and

22. Prepare and distribute at the expense of the school district any and all material which has the purpose of informing the public about district activities and concerns.

B. The board of education of any school district may rent, on a monthly basis, real and personal property, if such items are necessary for the operation of the school, and pay the rental charges for the usage during any fiscal year, or portion thereof, out of appropriations made and approved for current expense purposes during the fiscal year. Any such rental contract extending beyond June 30 of such fiscal year shall be void unless it contains provisions for mutual ratification of renewal pursuant to the conditions provided for in this subsection. It is the intent of this subsection to authorize boards of education to enter into lease contracts but not to incur any obligation against the school district in excess of the income and revenue provided for such purposes for the fiscal year in which such lease contract is operative. Any lease agreement entered into by any board of education shall state the purchase price of real or personal property so leased. The lease shall not be extended so as to cause payment of more than the original purchase price of the real or personal property, plus interest not to exceed the legal rate. When the purchase price plus interest has been paid, the property shall belong to the lessee and the lessor shall deliver a deed or bill of sale to the property to the lessee. When any real or personal property has been leased or rented during any fiscal year pursuant to the provisions of any contract which permits continuance of such rental for the remainder of such fiscal year, the renting or leasing thereof must be continued for the remainder of the fiscal year unless the board of education renting or leasing the same certifies by proper resolution entered in the minutes of the board of education that the continuance of such rental is unnecessary and contrary to the public interest.

C. The boards of education of two or more school districts may enter into cooperative agreements and maintain joint programs including but not limited to, courses of instruction for handicapped children, courses of instruction in music and other subjects, practical instruction for trades and vocations, practical instruction in driver training courses, and health programs including visual care by persons legally licensed for such purpose, without favoritism as to either profession. The revenues necessary to operate a joint program approved in cooperative agreements, whether from federal, state or local sources, including the individual contributions of participating school districts, shall be deposited into a fund separate from all other appropriated funds. The beginning fund balance each year, combined with all actual revenues, including collected and estimated revenues, must be appropriated before being expended. Purchase orders shall be issued against available appropriations and, once goods or services have been received, either payable or nonpayable warrants shall be issued in payment of all purchase orders. The fund shall be reported as a separate appropriated fund in all the financial reports of the

school district which is chosen by the other school districts to keep the accounting records of the joint program.

D. Any school district may operate or maintain a school or schools on any military reservation which is within the boundaries of the school district or which is adjacent to the school district, and provide the instruction in the school or schools to children of personnel on the military reservation and, in doing so, shall conform to all federal laws and requirements.

E. The board of education of each school district shall adopt and maintain on file in the office of the superintendent of schools appropriate personnel policy and sick leave guide. The guide shall be made available to the public.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-127.1 of Title 70, unless there is created a duplication in numbering, reads as follows:

Except for audits requested by a prosecutorial agency, the findings of an audit performed on any school district by any state agency, or on behalf of or at the direction of any state agency shall be discussed with the members of the board of education and the superintendent or a designee of the affected school district at least fourteen (14) days prior to the release of the audit to the public.

SECTION 3. AMENDATORY 62 O.S. 1991, Section 348.1, as amended by Section 10, Chapter 211, O.S.L. 1992 (62 O.S. Supp. 1998, Section 348.1), is amended to read as follows:

Section 348.1 Except as otherwise provided for by law, a county treasurer, when authorized by the board of county commissioners by a written investment policy, ordinance or resolution or the treasurer of any city~~,~~ <u>or</u> town, ~~or school district,~~ when authorized by the appropriate governing body by a written investment policy, ordinance or resolution, shall invest monies in the custody of the treasurer in:

1. ~~direct~~ <u>Direct</u> obligations of the United States Government, its agencies or instrumentalities to the payment of which the full faith and credit of the Government of the United States is pledged, or obligations to the payment of which the full faith and credit of this state is pledged; ~~or~~

2. ~~collateralized~~ <u>Collateralized</u> or insured certificates of deposits of savings and loan associations, banks, savings banks and credit unions located in this state, when the certificates of deposit are secured by acceptable collateral as provided in Section 516.3 of this title, or fully insured certificates of deposit at banks, savings banks, savings and loan associations and credit unions located out of state; ~~or~~

3. ~~savings~~ <u>Savings</u> accounts or savings certificates of savings and loan associations, banks, and credit unions, to the extent that the accounts or certificates are fully insured by the Federal Deposit Insurance Corporation; ~~or~~

4. ~~investments~~ <u>Investments</u> as authorized by Section 348.3 of this title which are fully collateralized in investments specified

in paragraphs 1 through 3 of this section, and where the collateral has been deposited with a trustee or custodian bank in an irrevocable trust or escrow account established for such purposes; or

5. ~~county~~ County, municipal or school district direct debt obligation for which an ad valorem tax may be levied or bond and revenue anticipation notes, money judgments against such county, municipality or school district ordered by a court of record or bonds or bond and revenue anticipation notes issued by a public trust for which such county, municipality or school district is a beneficiary thereof. All collateral pledged to secure public funds shall be valued at no more than market value. The income received from that investment may be placed in the general fund of the governmental subdivision to be used for general governmental operations, the sinking fund, the building fund, or the fund from which the investment was made.

SECTION 4. AMENDATORY 70 O.S. 1991, Section 5-114, is amended to read as follows:

Section 5-114. A. The county treasurer of each county shall be the treasurer of all school districts in ~~said~~ the county, except that the board of education of a school district may appoint a local treasurer for the school district and, in its discretion, an assistant local treasurer of the district, each of whom shall serve at the pleasure of the board for such compensation as the board may determine. The assistant local treasurer may perform any of the duties and exercise any of the powers of the local treasurer with the same force and effect as if the same were done or performed by the local treasurer. Before entering upon the discharge of the duties of the assistant treasurer, the assistant treasurer shall give a bond in such amount as the board of education may designate, with good and sufficient sureties to be approved by the board, conditioned for the faithful performance of his or her duties. A local treasurer or assistant local treasurer need not be a resident of the school district where ~~said local treasurer or assistant local treasurer is~~ appointed to serve, although any local treasurer or assistant local treasurer shall be a resident of this state. Nothing herein shall prevent ~~said~~ a local treasurer or assistant local treasurer from being appointed for more than one school district.

B. ~~The investment authority required in Section 348.1 of Title 62 of the Oklahoma Statutes shall be necessary only for a general investment program and not for each transaction of the treasurer necessary to implement the investment program. Such required authority may be given by resolution or other action of the school district's board for a specific period of time and may be modified from time to time.~~

~~C.~~ Whenever a county treasurer is designated as the treasurer for a school district, the county treasurer may elect to charge for such services. If ~~said~~ charges are assessed, the treasurer shall prepare a special estimate of needs each fiscal year, covering all expenditures of the office on behalf of any school districts for which the county treasurer serves as treasurer. The estimate for treasurer services shall be itemized by personal services and maintenance and operation expenditures and shall be filed with the county excise board. In reviewing and approving this estimate, the

county excise board shall authorize and levy amounts for treasurer services which in the judgment of the board will be sufficient to perform the services. The board shall apportion the cost among the school districts for which the treasurer services are to be charged in the ratio which each school district's total appropriations for the preceding year bears to the total appropriations of all such school districts receiving treasurer services for the preceding year. The amounts shall be included in, or added to, the estimates of needs or budget of each such school district. The amount as approved and appropriated by the county excise board shall be paid by the school district, by appropriate warrants, to the county for deposit in the county general fund.

SECTION 5. AMENDATORY 70 O.S. 1991, Section 5-115, as amended by Section 11, Chapter 211, O.S.L. 1992 (70 O.S. Supp. 1998, Section 5-115), is amended to read as follows:

Section 5-115. A. Unless the context clearly shows otherwise, the term "treasurer", as used in this section, includes a county treasurer acting as the treasurer of a school district pursuant to the provisions of Section 5-114 of this title. The treasurer so appointed shall execute, before entering upon the duties of the office of the treasurer, a surety bond in an amount which it is estimated by the board of education the treasurer will have on hand at any one time during the current year, and the amount of securities held as investments shall not be considered. The board of education is empowered to require the treasurer to increase or decrease the bond of the treasurer as the amount of funds on hand may require. Provided, the bond of a school district shall not, in any event, be required to be in an amount greater than that of the county treasurer of the county. The premium on ~~said~~ the bond shall be paid by the board of education out of district funds. Provided, however, the treasurer of such district shall require the depository wherein school district funds are deposited to insure or guarantee the deposit by proper securities, which shall be of the same class of securities as are required to insure deposits of county treasurers of the various counties, and ~~said~~ the securities shall be pledged, taken and kept in the manner provided by Sections 516.1 through 516.10 of Title 62 of the Oklahoma Statutes.

B. In all districts which are permitted by law to select a local treasurer, the county treasurer shall act as treasurer thereof until such time as a local treasurer shall be appointed and has executed the surety bond required by this section. In no instance in which the county treasurer is the treasurer of any school district shall any additional bond be required, but the official bond of the county treasurer shall stand for any and all funds and securities coming into the hands of the county treasurer.

C. The local treasurer of a district, when required by the board of education, shall prepare and submit in writing a report of the condition of the finances of the district and shall produce at any meeting of the board or to any committee appointed for the purpose of examining the accounts of the treasurer all books and papers pertaining to the office of the treasurer. Upon failure to make reports as provided for herein or as may otherwise be required by law, the board may at any regular or special meeting thereof summarily suspend ~~said~~ the treasurer, and while so suspended the treasurer shall perform no act pertaining to the office of the

treasurer. Such suspension shall continue until ended by order of the board or by judgment of a court of competent jurisdiction.

D. The local treasurer of a school district shall keep a separate cash ledger for each fund in the custody of the treasurer. The local treasurer shall enter each collection and disbursement in the cash ledger of the applicable fund by recording the date and classification of each transaction and such other information as may be deemed desirable. Additional ledgers shall also be maintained to record the investments made from each fund. Such investment ledgers shall disclose the date, description and principal amount paid for each investment purchased and the date and principal amount received for each investment liquidated.

E. Upon suspension by the board, the treasurer shall immediately turn over to the board of education or to the acting treasurer if one has been appointed by the board all books and papers and other property pertaining to the office of the treasurer.

F. Except as otherwise provided by law, no treasurer of any district shall pay out school district funds in the care of the treasurer except upon warrants signed by the proper school district officials authorized by the law to sign such warrants, provided, this restriction shall not apply to sinking funds or to the investment of school district funds. Authorized sinking fund payments and payment for investments or receipt of liquidated investments may be made by check, wire transfer or other instrument or method through the Federal Reserve System.

G. The ~~school~~ board of education shall, each month, set aside funds to an operating account and to an investment account. Investments by the treasurer shall be made in accordance with a written policy adopted by the board of education. The written investment policy shall address liquidity, diversification, safety of principal, yield, maturity, quality of the instrument, and capability of investment management. Acting within the investment policy, the treasurer shall place primary emphasis on safety and liquidity in the investment of funds. Taking into account the need to use sound investment judgment, school districts shall, to the extent practicable, use competitive bids when they purchase direct obligations of the United States Government or other obligations of the United States Government, its agencies or instrumentalities. Such system shall be designed to maximize yield within each class of investment instrument, consistent with the safety of the funds invested. The board of education must review the investment performance of the treasurer on a regular basis and no less than each month. The treasurer of every school district shall invest the full amount of the investment account in:

1. Direct obligations of the United States Government to the payment of which the full faith and credit of the Government of the United States is pledged~~, or obligations~~; provided, a treasurer of a school district who has completed the program pursuant to the provisions of subsection H of this section may invest funds in the investment account in other obligations of the United States Government, its agencies or instrumentalities;

2. Obligations to the payment of which the full faith and credit of this state is pledged;

~~2.~~ 3. Certificates of deposits of banks when such certificates of deposits are secured by acceptable collateral as in the deposit of other public monies;

~~3.~~ 4. In savings accounts or savings certificates of savings and loan associations to the extent that such accounts or certificates are fully insured by the Federal Savings and Loan Insurance Corporation. Provided, that the income received from ~~said~~ the investments may be placed in the general fund of the governmental subdivision to be used for general governmental operations; ~~or~~

~~4.~~ 5. Repurchase agreements that have underlying collateral consisting of those items specified in paragraphs 1 and 2 of this subsection including obligations of the United States, its agencies and instrumentalities, and where the collateral has been deposited with a trustee or custodian bank in an irrevocable trust or escrow account established for such purposes;

6. County, municipal or school district direct debt obligations for which an ad valorem tax may be levied or bond and revenue anticipation notes, money judgments against such county, municipality or school district ordered by a court of record or bonds or bond and revenue anticipation notes issued by a public trust for which such county, municipality or school district is a beneficiary thereof. All collateral pledged to secure public funds shall be valued at no more than market value. The income received from that investment may be placed in the general fund of the governmental subdivision to be used for general governmental operations, the sinking fund, the building fund, or the fund from which the investment was made;

7. Money market mutual funds regulated by the Securities and Exchange Commission and which investments consist of obligations of the United States, its agencies and instrumentalities, and investments in those items and those restrictions specified in paragraphs 1 through 6 of this subsection;

8. Warrants, bonds or judgments of the school district; or

9. Qualified pooled investment programs, the investments of which consist of those items specified in paragraphs 1 through 8 of this subsection, as well as obligations of the United States agencies and instrumentalities, regardless of the size of the district's budget. To be qualified, a pooled investment program for school funds must be governed through an interlocal cooperative agreement formed pursuant to Section 5-117b of this title, and the program must competitively select its investment advisors and other professionals. Any pooled investment program used must be approved by the board of education.

H. The board of education is hereby empowered to require the treasurer to satisfactorily complete an investment education program approved by the State Board of Education and the State Board of Vocational-Technical Education. Such program shall be designed to allow treasurers to make informed decisions regarding the safety, return, liquidity, costs and benefits of various investment options allowed under this section.

SECTION 6. This act shall become effective July 1, 1999.

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.

Passed the House of Representatives the 19th day of May, 1999.

_____

Speaker of the House of Representatives

Passed the Senate the 19th day of May, 1999.

_____

President of the Senate