

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

CONFERENCE COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
HOUSE BILL NO. 1767

By: Adair and Ferguson of the  
House

and

Hobson and Williams of the  
Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to schools; directing the State Department of Education to conduct an evaluation of certain legislation; requiring a report; creating the School State Aid Funding Study Group; stating duties of the Study Group; providing for membership, officers, staffing, and travel reimbursement; authorizing the employment of an independent consultant; requiring a report; authorizing the State Board of Education to waive certain class size penalties; limiting application of waived penalties; directing the Board to establish guidelines for application for a penalty waiver; providing time limit for consideration of an application; creating the Task Force on School District Administrative Reorganization or Consolidation; stating purpose of the Task Force; requiring recommendations by a certain date; providing for membership, meetings, staffing, and travel reimbursement; amending 70 O.S. 2001, Sections 6-101.3 and 6-101.26, which relate to teacher due process procedures; modifying definition; adding definition; modifying career teacher due process hearings; providing procedure for a career teacher pretermination hearing; providing procedure for a probationary teacher hearing; amending 70 O.S. 2001, Section 6-190.1, which relates to provisional certification for Speech-Language Pathologists; extending date for certain provisional certification; amending 70 O.S. 2001, Section 8-103, which relates to student transfers; requiring certain notification of cancellation of transfers; amending 10 O.S. 2001, Section 7307-1.8, which relates to expungement of juvenile court records; allowing certain persons to petition for expungement of records pertaining to truancy; amending 70 O.S. 2001, Section 10-105, which relates to attendance requirements; modifying truancy age; amending 70 O.S. 2001, Section 18-104, which relates to purpose of funds; deleting requirement for adjustment of appropriation when there is a reduction in State Aid allocations; amending 70 O.S. 2001, Section 18-124, which relates to administrative services expenditure limitations; clarifying statutory language; modifying definition of administrative services; providing for allocation of

a school employee time for administrative services; providing for allocation of time and the coding of salary of a superintendent; prohibiting the State Board of Education from withholding certain payments for certain violations; prohibiting the reduction of a teacher salary and fringe benefit except under certain circumstances; providing for forfeiture of State Aid for willful reductions of salary; directing the State Department of Education to withhold an amount for payment to the teacher; directing the State Board of Education to promulgate rules; authorizing the Virtual Internet School Pilot Program Coordinating Committee to enter into cooperative partnerships; stating goals of partnerships; providing for certain contracts; providing for certain assistance; stating work of the committee; requiring products, processes, and ideas to be construed in certain manner and following certain standards; directing the Committee to establish evaluation criteria; requiring certain reports; requiring application of certain law; requiring partnerships to be formed in certain manner; amending 70 O.S. 2001, Section 3-152, which relates to the Academic Performance Award Program; amending 70 O.S. 2001, Section 6-189.1, as amended by Section 1, Chapter 291, O.S.L. 2002 (70 O.S. Supp. 2002, Section 6-189.1), which relates to middle level mathematics certification and endorsement; amending 70 O.S. 2001, Section 6-195.1, which relates to a continuing education program for teachers teaching mathematics; amending 70 O.S. 2001, Sections 6-204.1 and 6-204.2, as amended by Section 4, Chapter 236, O.S.L. 2002 (70 O.S. Supp. 2002, Section 6-204.2), which relate to the Education Leadership Oklahoma program; amending 70 O.S. 2001, Section 18-108, which relates to kindergarten attendance; amending 70 O.S. 2001, Section 1210.508E, as amended by Section 2, Chapter 212, O.S.L. 2002 (70 O.S. Supp. 2002, Section 1210.508E), which relates to retention and remediation of certain third-grade students; amending 70 O.S. 2001, Section 1210.569, which relates to the needs assessment and alternative education plan; amending 70 O.S. 2001, Section 1210.710, which relates to school counselors for urban school districts; making certain legislative mandates contingent upon funding by the Legislature; adding certain definition; modifying requirement for bonus; providing for codification; providing for noncodification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-123.1 of Title 70, unless there is created a duplication in numbering, reads as follows:

The State Department of Education shall conduct an evaluation of the provisions of Enrolled House Bill No. 1017 of the 1st Extraordinary Session of the 42nd Oklahoma Legislature as amended, Enrolled House Bill No. 1759 of the 1st Regular Session of the 47th Oklahoma Legislature as amended, and the federal Elementary and Secondary Education Act, P.L. No. 107-110, also known as the No Child Left Behind Act of 2001 to determine if there is a duplication of or a conflict in the legislative mandates in each act. The Department shall issue a report of the evaluation to the Speaker of the House of Representatives and the President Pro Tempore of the Senate no later than December 31, 2003.

SECTION 2. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

A. There is hereby created a School State Aid Funding Study Group to evaluate and make recommendations on changes and updates to the State Aid funding formula for public school districts in the state.

B. The study group shall be composed of three members of the Oklahoma House of Representatives to be appointed by the Speaker of the House of Representatives and three members of the State Senate to be appointed by the President Pro Tempore of the Senate. The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each select a cochair from the appointments.

C. The House of Representatives and Senate shall provide staff support as required by the study group. The State Department of Education shall also provide staff support and any information needed by the study group in the performance of its duties. The State Board of Education shall be authorized to employ an independent consultant or other persons as necessary to assist the study group in the performance of its duties at the direction of the cochairs of the study group.

D. Members of the study group may be reimbursed for necessary travel expenses incurred in the performance of their duties in accordance with Section 456 of Title 74 of the Oklahoma Statutes.

E. The study group shall prepare and submit a report outlining its findings and recommendation not later than December 31, 2003, to the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

SECTION 3. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

A. The State Board of Education may waive any penalties that would be imposed upon a school district pursuant to Section 18-113.1, 18-113.2, 18-113.3 or 18-113.4 of Title 70 of the Oklahoma Statutes for class size violations that may occur during school year 2003-2004 upon a showing of economic hardship as defined by the State Board of Education. Waived penalties shall not count as penalties for purposes of denying accreditation pursuant to subsection E of Section 18-113.1, subsection B of Section 18-113.2, and subsection G of Section 18-113.3 of Title 70 of the Oklahoma Statutes.

B. The State Board of Education shall establish guidelines by which a school district, upon approval of the district board of education, may apply for a class-size penalty waiver. The guidelines shall allow districts to apply no later than February 1, 2004. The Board shall render a decision on an application no later than forty-five (45) days following the receipt of the application by the State Department of Education unless the district requests an extension of time.

SECTION 4. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

A. There is hereby created until December 31, 2003, the Task Force on School District Administrative Reorganization or Consolidation. The purpose of the Task Force is to determine how

much money can be saved by reorganization and consolidation of the administrative functions of school districts in the state and the related effects on the efficiency of such functions and academic programs.

B. The Task Force shall make recommendations to the Legislature by December 31, 2003.

C. The Task Force shall consist of the following members:

1. Three members to be appointed by the Speaker of the Oklahoma House of Representatives, as follows:

- a. one school administrator representing a medium school district with an average daily attendance of more than one thousand (1,000) but less than ten thousand (10,000),
- b. one classroom teacher, and
- c. one parent of a student in the public schools;

2. Three members to be appointed by the President Pro Tempore of the State Senate, as follows:

- a. one school administrator representing a large school district with an average daily attendance of ten thousand (10,000) or more,
- b. one classroom teacher, and
- c. one parent of a student in the public schools who is also a member of a school district board of education;

3. Six members to be appointed by the Governor, as follows:

- a. four members who are either an owner, officer, or executive for a business or industry located in the state,
- b. one school administrator representing a small school district with an average daily attendance of one thousand (1,000) or less, and
- c. one member of a school district board of education;

4. One member of the Oklahoma House of Representatives to be appointed by the Minority Floor Leader of the Oklahoma House of Representatives;

5. One member of the State Senate to be appointed by the Minority Leader of the Oklahoma State Senate;

6. One member of the Oklahoma House of Representatives to be appointed by the Speaker of the House of Representatives;

7. One member of the Oklahoma State Senate to be appointed by the President Pro Tempore of the Senate; and

8. The State Superintendent of Public Instruction or a designee.

D. Two additional members shall be selected for the Task Force upon agreement of the Speaker of the House of Representatives, the President Pro Tempore of the State Senate, and the Governor and shall serve as cochairs of the Task Force.

E. The first meeting of the Task Force shall take place no later than September 1, 2003. The Task Force shall meet at such times and places as deemed necessary to perform its duties as specified in this section. Meetings shall be held at the call of either cochair. Staffing for the Task Force shall be provided by the staff of the Oklahoma House of Representatives and the State Senate, and by the State Department of Education.

F. Members of the Task Force shall receive no compensation for serving on the Task Force, but may receive travel reimbursement as follows:

1. Legislative members of the Task Force may be reimbursed for their necessary travel expenses incurred in the performance of their duties in accordance with Section 456 of Title 74 of the Oklahoma Statutes, from the legislative body in which they serve; and

2. Other members of the Task Force may be reimbursed for travel expenses incurred in the performance of their duties by their

respective appointing authorities in accordance with the State Travel Reimbursement Act.

SECTION 5. AMENDATORY 70 O.S. 2001, Section 6-101.3, is amended to read as follows:

Section 6-101.3 As used in Section 6-101 et seq. of ~~Title 70 of the Oklahoma Statutes~~ this title:

1. "Administrator" means a duly certified person who devotes a majority of time to service as a superintendent, elementary superintendent, assistant superintendent, principal, supervisor, vice or assistant principal or in any other administrative or supervisory capacity in the school district;

2. "Dismissal" means the discontinuance of the teaching service of an administrator or teacher during the term of a written contract, as provided by law;

3. "Nonreemployment" means the nonrenewal of an administrator's or teacher's contract upon expiration of the contract;

4. "Career teacher" means a teacher who has completed three (3) or more consecutive complete school years in such capacity in one school district under a written teaching contract;

5. "~~Hearing~~ Probationary teacher hearing" means the hearing before a local board of education after a recommendation for dismissal or nonreemployment of a probationary teacher has been made but before any final action is taken on said recommendation, held for the purpose of affording such teacher all rights guaranteed by the United States Constitution and the Constitution of Oklahoma under such circumstances and for enabling the board to determine whether to approve or disapprove the recommendation;

6. "Career teacher pretermination hearing" means the informal proceeding before the local board of education held for the purpose of providing a meaningful opportunity to invoke the discretion of the decision maker after a recommendation for dismissal or nonreemployment of a career teacher has been made but before any

final action is taken on the recommendation in order to ensure that the career teacher is afforded the essential pretermination due process requirements of notice and an opportunity to respond;

7. "Probationary teacher" means a teacher who has completed fewer than three (3) consecutive complete school years in such capacity in one school district under a written teaching contract;

~~7.~~ 8. "Suspension" or "suspended" means the temporary discontinuance of an administrator's or teacher's services, as provided by law; and

~~8.~~ 9. "Teacher" means a duly certified or licensed person who is employed to serve as a counselor, librarian or school nurse or in any instructional capacity; an administrator shall be considered a teacher only with regard to service in an instructional, nonadministrative capacity.

SECTION 6. AMENDATORY 70 O.S. 2001, Section 6-101.26, is amended to read as follows:

Section 6-101.26 A. Whenever a board of education receives a superintendent's recommendation for the dismissal or nonreemployment of a teacher, the board shall mail a copy of the recommendation to the teacher by certified mail, restricted delivery, return receipt requested or by substitute process as provided by law. By the same means, the board shall notify the teacher of such teacher's right to a hearing before the board and the date, time and place set by the board for the hearing, which shall be held within the school district not sooner than twenty (20) days or later than sixty (60) days after the teacher's receipt of notice. The notice shall specify the statutory grounds upon which the recommendation is based upon for a career teacher or shall specify the cause upon which the recommendation is based upon for a probationary teacher. ~~Said~~ The notice shall also specify the underlying facts supporting the recommendation. At ~~such~~ the hearing, the teacher shall be entitled



to all rights guaranteed under ~~such~~ the circumstances by the United States Constitution and the Constitution of Oklahoma.

B. The career teacher pretermination hearing shall be conducted by the local board ~~according to procedures established by the State Board of Education~~ as follows:

1. The superintendent or designee shall, in person or in writing, specify the statutory ground upon which the recommendation is based. The superintendent or designee shall also specify the underlying facts and provide an explanation of the evidence supporting the recommendation for the dismissal or nonreemployment of the career teacher; and

2. The career teacher or designee shall have the opportunity to present reasons, either in person or in writing, why the proposed action should not be taken.

C. Only after ~~due consideration of the evidence and testimony presented~~ the career teacher has a meaningful opportunity to respond to the recommendation for dismissal or nonreemployment at the pretermination hearing shall the local board decide whether to dismiss or nonreemploy the teacher accept or reject the recommendation of the superintendent. The board's decision vote made by the board shall be voted made in an open meeting. The board shall also notify the career teacher of its decision, including the basis for the decision, by certified mail, restricted delivery, return receipt requested or substitute process as provided by law. If the decision is to ~~dismiss or nonreemploy a career teacher~~ accept the recommendation of the superintendent, the board shall include notification of ~~said teacher's~~ the right of the career teacher to petition for a trial de novo in the district court within ten (10) days of receipt of notice of said the decision. The board's decision regarding a probationary teacher shall be final. At the pretermination hearing the burden of proof shall be upon the superintendent or designee and the standard of proof shall be by the

preponderance of the evidence. The career teacher shall receive any compensation or benefits to which such teacher is otherwise entitled until such time as the teacher's case is adjudicated at a trial de novo if the career teacher petitions for the trial de novo. Such compensation and benefits shall not be provided during any further appeal process. ~~The probationary teacher shall receive any compensation or benefits to which such teacher is otherwise entitled until such time as the board's decision becomes final.~~

~~Provided, however, if the hearing for a probationary teacher is for nonreemployment of the probationary teacher, such compensation and benefits may be continued only until the end of such teacher's current contract.~~

D. The probationary teacher hearing shall be conducted by the local board according to procedures established by the State Board of Education.

E. Only after due consideration of the evidence and testimony presented at the hearing shall the local board decide whether to dismiss or nonreemploy the probationary teacher. The vote of the board shall be made in an open meeting. The board shall also notify the probationary teacher of the decision, including the basis for the decision, by certified mail, restricted delivery, return receipt requested, or substitute process as provided by law. The decision of the board regarding a probationary teacher shall be final and nonappealable. At the hearing the burden of proof shall be upon the superintendent or designee, and the standard of proof shall be by the preponderance of the evidence. The probationary teacher shall receive any compensation or benefits to which the teacher is otherwise entitled until such time as the decision of the board becomes final. If the hearing for a probationary teacher is for nonreemployment, such compensation and benefits may be continued only until the end of the current contract of the teacher.

SECTION 7. AMENDATORY 70 O.S. 2001, Section 6-190.1, is amended to read as follows:

Section 6-190.1 Individuals who held a provisional certificate during the 1998-1999 school year in Speech-Language Pathology shall be granted a ~~three-year~~ an extension of the provisional certificate by the State Board of Education. On and after July 1, ~~2002~~ 2005, provisional certificates may be renewed on an annual basis, provided the individual documents admission to and progress toward completion of the relevant master's degree program.

SECTION 8. AMENDATORY 70 O.S. 2001, Section 8-103, is amended to read as follows:

Section 8-103. A. In order that any student may be transferred, an application form specified by the State Board of Education must be completed by the parents of the student. For purposes of the Education Open Transfer Act, the term "parent" means the parent of the student or person having custody of the student as provided for in paragraph 1 of subsection A of Section 1-113 of this title. The application shall be obtained from and filed with the superintendent of the receiving school district for transfers to school districts in the State of Oklahoma and with the State Board of Education for transfers to school districts in another state. Applications shall be filed no later than February 1 of the school year preceding the school year for which the transfer is desired. By March 1 of the same school year, the receiving school district shall notify the resident school district that an application for transfer has been filed by a student enrolled in the resident school district. The board of education of the receiving school district shall approve or deny the application for transfer not later than June 1 of the same year and shall notify the parents of the student of the decision. By July 1 of the same year, the parents of the student shall notify the receiving school district that the student will be enrolling in that school district. Failure of parents to

notify the district as required may result in loss of the student's right to enroll in the district for that year.

B. On or before ~~August~~ September 1, it shall be the duty of the superintendent of the receiving school district to file with the State Board of Education and each resident district a statement showing the names of the students granted transfers to the school district, the resident school district of the transferred students and their respective grade level.

C. The receiving school district of a student transferred pursuant to the provisions of this act shall notify the resident school district and parents of the student of a cancellation of the transfer. Such notice shall be made by June 1 prior to the school year for which the cancellation is applicable.

SECTION 9. AMENDATORY 10 O.S. 2001, Section 7307-1.8, is amended to read as follows:

Section 7307-1.8 A. A person who is the subject of an open juvenile court record may petition the district court in which the juvenile court record is located for an order to expunge all or any part of the record pertaining to the person, except basic identification information; provided:

1. The person has attained twenty-one (21) years of age or older;

2. The person has not been arrested for any adult criminal offense and no charge, indictment, or information has been filed or is pending against the person at the time of the petition for an expungement;

3. The person has not been subject to any deferred prosecution or deferred sentence, and has not been convicted of any criminal offense; and

4. All court costs, restitution, fines and other court-ordered requirements have been completed for all juvenile proceedings.

B. Upon the filing of a petition for expungement of a juvenile court record, the court shall set a date for a hearing, which hearing may be closed at the court's discretion, and shall provide a thirty (30) days' notice of the hearing to the district attorney, the Department of Juvenile Justice, the Oklahoma State Bureau of Investigation, and any other person or agency whom the court has reason to believe may have relevant information related to the expungement of any record.

C. Upon a finding that the harm to privacy of the person in interest or dangers of unwarranted adverse consequences outweigh the public interest in retaining the records, the court may order the records, or any part thereof except basic identification information, to be expunged. If the court finds that neither expungement of the records nor maintaining of the records unsealed by the agency would serve the ends of justice, the court may enter an appropriate order limiting access to the records. Any order entered pursuant to the provisions of this subsection shall specify those agencies to which the court order shall apply.

D. Upon the entry of an order to expunge any juvenile court record, or any part thereof, the subject official actions shall be deemed never to have occurred, and the person in interest and all juvenile and criminal justice agencies may properly reply, upon any inquiry in the matter, that no such action ever occurred and that no such record exists with respect to the person.

E. Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person in interest who is the subject of the records, the Attorney General, or by the district attorney and only to those persons and for such purposes named in the petition.

F. Employers, educational institutions, state and local government agencies, officials, and employees shall not, in any application or interview or otherwise, require an applicant to

disclose any information contained in any expunged juvenile records. An applicant need not, in answer to any question concerning arrest, juvenile and criminal records, provide information that has been expunged, including any reference to or information concerning expungement and may state that no such action has ever occurred. Such an application may not be denied solely because of the applicant's refusal to disclose information that has been expunged.

G. Nothing in this section shall be construed to authorize the physical destruction of any juvenile records.

H. For the purposes of this section, expunged materials which are recorded in the same document as unsealed material may be recorded in a separate document, and sealed, then obliterated in the original document.

I. For the purposes of this act, district court index reference of sealed material shall be destroyed, removed or obliterated.

J. Any record ordered to be expunged pursuant to this section shall be sealed and, if not unsealed within ten (10) years of the expungement order, may be obliterated or destroyed at the end of the ten-year period.

K. Subsequent to records being sealed as provided herein, the district attorney, the Department of Juvenile Justice, the Oklahoma State Bureau of Investigation, or other interested person or agency may petition the court for an order unsealing any records. Upon filing of a petition, the court shall set a date for hearing, which hearing may be closed at the court's discretion, and shall provide thirty (30) days' notice to all interested parties. If, upon hearing, the court determines there has been a change of conditions or that there is a compelling reason to unseal the records, the court may order all or a portion of the records unsealed.

L. Nothing herein shall prohibit the introduction of evidence regarding actions sealed pursuant to the provisions of this section at any hearing or trial for purposes of impeaching the credibility

of a witness or as evidence of character testimony pursuant to Section 2608 of Title 12 of the Oklahoma Statutes.

M. A person who has attained eighteen (18) years of age or older may petition the district or municipal court in which the juvenile court record is located for an order to expunge all or any part of the record pertaining to matters involving truancy provided the person has met the criteria set forth in paragraphs 2 through 4 of subsection A of this section. The petition shall be reviewed by the district or municipal judge with primary responsibility over the juvenile court docket.

SECTION 10. AMENDATORY 70 O.S. 2001, Section 10-105, is amended to read as follows:

Section 10-105. A. It shall be unlawful for a parent, guardian, or other person having custody of a child who is over the age of five (5) years, and under the age of eighteen (18) years, to neglect or refuse to cause or compel such child to attend and comply with the rules of some public, private or other school, unless other means of education are provided for the full term the schools of the district are in session or the child is excused as provided in this section. One-half (1/2) day of kindergarten shall be required of all children five (5) years of age or older unless the child is excused from kindergarten attendance as provided in this section. A child who is five (5) years of age shall be excused from kindergarten attendance until the next school year after the child is six (6) years of age if a parent, guardian, or other person having custody of the child notifies the superintendent of the district where the child is a resident by certified mail prior to enrollment in kindergarten, or at any time during the first school year that the child is required to attend kindergarten pursuant to this section, of election to withhold the child from kindergarten until the next school year after the child is six (6) years of age. A kindergarten program shall be directed toward developmentally

appropriate objectives for such children. The program shall require that any teacher employed on and after January 1, 1993, to teach a kindergarten program within the public school system shall be certified in early childhood education. All teachers hired to teach a kindergarten program within the public school system prior to January 1, 1993, shall be required to obtain certification in early childhood education on or before the 1996-97 school year in order to continue to teach a kindergarten program.

B. It shall be unlawful for any child who is over the age of ~~sixteen (16)~~ twelve (12) years and under the age of eighteen (18) years, and who has not finished four (4) years of high school work, to neglect or refuse to attend and comply with the rules of some public, private or other school, or receive an education by other means for the full term the schools of the district are in session.

Provided, that this section shall not apply:

1. If any such child is prevented from attending school by reason of mental or physical disability, to be determined by the board of education of the district upon a certificate of the school physician or public health physician, or, if no such physician is available, a duly licensed and practicing physician;

2. If any such child is excused from attendance at school, due to an emergency, by the principal teacher of the school in which such child is enrolled, at the request of the parent, guardian, custodian or other person having control of such child;

3. If any such child who has attained his or her sixteenth birthday is excused from attending school by written, joint agreement between:

- a. the school administrator of the school district where the child attends school, and
- b. the parent, guardian or custodian of the child.

Provided, further, that no child shall be excused from attending school by such joint agreement between a



school administrator and the parent, guardian or custodian of the child unless and until it has been determined that such action is for the best interest of the child and/or the community, and that said child shall thereafter be under the supervision of the parent, guardian or custodian until the child has reached the age of eighteen (18) years; or

4. If any such child is excused pursuant to subsection C of this section.

C. A school district shall excuse a student from attending school for the purpose of observing religious holy days if before the absence, the parent, guardian, or person having custody or control of the student submits a written request for the excused absence. The school district shall excuse a student pursuant to this subsection for the days on which the religious holy days are observed and for the days on which the student must travel to and from the site where the student will observe the holy days.

D. It shall be the duty of the attendance officer to enforce the provisions of this section. Any parent, guardian, custodian, child or other person violating any of the provisions of this section, upon conviction, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than Five Dollars (\$5.00) nor more than Twenty-five Dollars (\$25.00) for the first offense, not less than Ten Dollars (\$10.00) nor more than Fifty Dollars (\$50.00) for the second offense, and not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) for each subsequent offense. Each day the child remains out of school after the oral and documented or written warning has been given to the parent, guardian, custodian, child or other person or the child has been ordered to school by the juvenile court may constitute a separate offense. At the trial of any person charged with violating the provisions of this section, the attendance records of the child

or ward may be presented in court by any authorized employee of the school district.

SECTION 11. AMENDATORY 70 O.S. 2001, Section 18-104, is amended to read as follows:

Section 18-104. A. The funds apportioned and disbursed to the several school districts of the state shall be for the purpose of aiding each school district receiving the same to finance its school budget for each fiscal year. The State Board of Education shall notify the county clerk, the board of education, superintendent of each school district and the school district treasurer of the tentative amount said district is to receive from the funds apportioned under the provisions of this article and disbursed according to the provisions hereof. After such allocation of State Aid has been made by the State Board of Education and certified to the county clerk, treasurer of the school district and district superintendent of schools, such aid may be included as probable income by the board of education in its Estimate of Needs and Financial Statement as submitted to the county excise board, and said excise board shall include such amount in the approved appropriations, and in addition thereto any federal aid certified or allocated by the State Board of Education shall be included in the appropriation made by the excise board if requested by the board of education; provided, no such federal aid estimate shall be used in any way to reduce the State Foundation Aid or Incentive Aid for such school district or sustain a protest for the reduction of a tax levy. If such allocation of aid is not included in the board of education's estimate of needs, it shall be added by the county clerk to the items of appropriation designated by the board of education of the school district. Funds received under the provisions of this article shall be deposited in the general fund of such school district. Provided, funds received from the federal government for current expense purposes shall likewise be added to the

appropriation of the general fund if so designated by the board of education of such school district. Provided, further, that the board of education of a school district may enter into agreements with federal agencies for educational projects and programs to be maintained in such districts; and federal funds received by the district in pursuance thereof shall, consistent with the agreement and requirements of the federal agency, be kept, administered and disbursed in such manner as may be prescribed by rules and regulations of the board of education.

B. If the State Board of Education should ascertain that ~~any of the factors on which the apportionment or~~ allocation of State Aid to any school district has so changed as to ~~disqualify such district or to~~ reduce its State Aid, then the State Board of Education shall forthwith notify the district superintendent, the clerk of the board of education, and the treasurer thereof, as to the amount of reduction in the allocation of State Aid, ~~and the board of education of such district shall immediately request the county clerk to adjust the items of appropriation in accordance with such reduction as to effect a total reduction in the appropriation by the amount which the State Aid allocation was reduced; and if.~~ If there has been an overpayment the same shall be returned to the State Treasurer and credited to a refund account which shall be available for further payment of State Aid. Whenever it becomes necessary for a school district to refund any overpayment of monies previously received, the school district shall issue such warrant against a properly approved encumbrance in the manner provided by law. Such claim or encumbrance shall be coded as a refund of prior revenue and paid from the current expense appropriation of the general fund or such other fund or account from which such refund may properly be paid by the school district.

SECTION 12. AMENDATORY 70 O.S. 2001, Section 18-124, is amended to read as follows:

Section 18-124. A. Any school district with an average daily attendance (ADA) of more than one thousand five hundred (1,500) students for the preceding year which, ~~in school year 1987-88 or any school year thereafter,~~ expends for administrative services, less expenditures for legal services, more than six percent (6%) of the amount it expends for total expenditures, less expenditures for legal services, shall have the amount which exceeds the six percent (6%) withheld ~~from~~ the following ~~year's~~ year from the Foundation and Salary Incentive Aid for the school district.

B. Any school district with an average daily attendance (ADA) of more than five hundred (500) students but not more than one thousand five hundred (1,500) students for the preceding year which, ~~in school year 1987-88 or any school year thereafter,~~ expends for administrative services, less expenditures for legal services, more than eight percent (8%) of the amount it expends for total expenditures, less expenditures for legal services, shall have the amount which exceeds the eight percent (8%) withheld ~~from~~ the following ~~year's~~ year from the Foundation and Salary Incentive Aid for the school district.

C. Any school district with an average daily attendance (ADA) of five hundred (500) or fewer students for the preceding year which, ~~in school year 1987-88 or any school year thereafter,~~ expends for administrative services, less expenditures for legal services, more than ten percent (10%) of the amount it expends for total expenditures, less expenditures for legal services, shall have the amount which exceeds the ten percent (10%) withheld ~~from~~ the following ~~year's~~ year from the Foundation and Salary Incentive Aid for the school district.

D. For purposes of ~~subsections A, B and C~~ of this section, "administrative services" means costs associated with ~~staff:~~

1. Staff for the board of education, ~~the;~~
2. The secretary/clerk for the board of education, ~~and staff;~~

3. Staff relations, negotiations;

4. Negotiations staff, the superintendent, and staff;

5. Staff for the superintendent;

6. Any administrator as defined in Section 6-101.3 of this title;

7. Any employee of a school district employed as a director, coordinator, supervisor, or who has responsibility for administrative functions of a school district; and

8. Any consultant hired by the school district.

E. If an employee of a school district is employed in a position where part of the employee's time is spent as an administrator and part of the time is spent in nonadministrative functions, the percentage of time spent as an administrator shall be included as administrative services. Except for a superintendent who spends part of the time teaching in the classroom, the total amount of time a superintendent of a school district spends performing services for a school district shall be included as administrative services even if part of the time the superintendent is performing nonadministrative service functions and the total amount received by a superintendent from the school district as salary shall be recorded under the code for superintendent salary as provided for in the Oklahoma Cost Accounting System.

F. Each school site within a school district shall take steps to ensure that the administrative costs for the school comply with the expenditure limits established for school districts in this section.

~~F.~~ G. Funds withheld pursuant to the provisions of this section shall be distributed through the State Aid formula to the districts not so penalized.

H. The State Board of Education shall annually issue a report to the Governor, Speaker of the Oklahoma House of Representatives, and President Pro Tempore of the State Senate listing the total

amount expended by each school district in the state and the percentage expended as compared to total expenditures by each school district for administrative services for the preceding school year.

SECTION 13. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The State Board of Education shall not withhold an amount from the Foundation and Salary Incentive Aid of any school district that would be imposed upon the district pursuant to Section 18-124 of Title 70 of the Oklahoma Statutes for administrative cost limitation violations that may occur during the FY-03 or FY-04 fiscal year.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 18-114.9 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. If a teacher, as defined in Section 6-101.3 of Title 70 of the Oklahoma Statutes, is employed by the same school district for the next school year as the preceding school year, the salary and fringe benefit level of the teacher shall not be decreased the next school year unless the hours or the duties of the teacher are reduced proportionately.

B. Any school district that willfully reduces or has in years previous to enactment of this section willfully reduced the salary of a teacher in violation of subsection A of this section shall forfeit a portion of its State Aid equal to the total amount that the teacher was underpaid. If the teacher was underpaid for more than one (1) school year, the amount forfeited shall equal the cumulative 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. In addition to the amount of State Aid forfeited as a penalty pursuant to subsection B of this section, in order to ensure that the teacher receives the full amount of unpaid salary, the

State Department of Education shall withhold an amount which is equal to the total amount that the teacher was underpaid from the State Aid payment of the school district and pay the amount directly to the teacher.

D. The State Board of Education shall promulgate rules necessary to implement the provisions of this section. The rules shall include, but not be limited to, procedures for a teacher to file a complaint for violation of this section and the Department to investigate the complaint.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1210.727 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. The Virtual Internet School Pilot Program Coordinating Committee may enter into cooperative partnerships with private Oklahoma-based companies in order to:

1. Distribute and utilize the management system and web-based curriculum content developed through the VISION Pilot Program as outlined in the Virtual Internet School In Oklahoma Network (VISION) Act on a statewide basis for school districts;

2. Continue the development of the products, processes and ideas that have resulted or will result from the VISION Pilot Program and that have a potential for protection pursuant to the intellectual property laws of the United States or of this state; and

3. Assist school districts in taking advantage of education technologies that have been developed or are being developed through the VISION Pilot Program and through private companies that help school districts improve education and meet state and federal reporting requirements and also help schools increase parental involvement and parental and public access to information.

B. A partnership shall be a collaborative effort where the Committee and a company exchange information and ideas. The

formation of the partnership shall not entail the commitment of or exchange of state or federal money, provided the Committee may in a separate agreement contract with a partnership company for products or services as provided for by law. In order to achieve the goals of a partnership, the Committee may seek assistance from OneNet for cost-efficient distribution services, from the Oklahoma Center for the Advancement of Science and Technology for technical expertise, or from any other state entity.

C. The Committee shall work with any partnership company to determine the market feasibility of any product, processes, or ideas that have resulted from the VISION Pilot Program or result from the collaborative effort of the partnership, including software integration engines for interfacing existing technology, and that have a potential for protection pursuant to the intellectual property laws of the United States or of this state. The Committee shall also work with any partnership company to develop a marketing plan for the commercialization of all such products, processes, or ideas.

D. Any products, processes, or ideas, including the software integration engines, developed from the collaborative effort of the partnership shall be constructed, in addition to other goals, in a manner to assist school districts and the state in complying with the guidelines of the Elementary and Secondary Education Act of 2001 (ESEA), P.L. No. 107-110, also known as the No Child Left Behind Act of 2001, and shall be in accordance with the following standards or guidelines:

1. Extensible Markup Language (XML);
2. Web services, a protocol developed by the World Wide Web Consortium;
3. Schools Interoperability Framework (SIF) version 1.5 specifications or any updated version of the specifications; and



4. The United States Department of Education Performance-Based Data Management Initiative (PBDMI).

E. In order to move as quickly as possible on the formation of partnerships, on or before August 1, 2003, the Committee shall establish criteria upon which to evaluate a company for a partnership established pursuant to this section. The criteria may include, but is not limited to the:

1. Quality or technical competency of the company and its products;

2. Financial stability of the company;

3. Reliability of the delivery and implementation schedules of the company;

4. Industry and program experience of the company and record of successful past performance with web-based projects of similar scope and complexity in Oklahoma;

5. Anticipated acceptance by user groups; and

6. Use of proven development methodology by the company, and innovative use of current technologies that lead to quality results.

F. By January 1, 2004, the Committee shall report to the State Board of Education and the Legislature the results of any distribution, collaboration, and marketing efforts resulting from the partnership formed pursuant to the section.

G. Any product, processes, or ideas that have resulted solely from the VISION Pilot Program or result from the collaborative effort of the partnership, including software integration engines for interfacing existing technology, and that have a potential for protection pursuant to the intellectual property laws of the United States or of this state shall be subject to the provisions of Section 85.60 of Title 74 of the Oklahoma Statutes.

H. Any partnership entered into by the Committee pursuant to the provisions of this section shall be formed so as to not confer

upon the company any benefit in violation of Section 15 of Article X of the Oklahoma Constitution.

SECTION 16. AMENDATORY 70 O.S. 2001, Section 3-152, is amended to read as follows:

Section 3-152. A. The Subject to the availability of funds appropriated by the Legislature for the purposes of this subsection, the State Board of Education shall develop an Academic Performance Award Program for school districts and individual school sites who meet or exceed the expected growth targets as established by the Board. Those districts or sites who have not met their expected growth targets, but demonstrate significant growth as determined by the Board, shall be included in the performance award program, but receive a decreased award amount.

B. Implementation of this section shall be delayed until the current expenditure per pupil in average daily attendance in public elementary and secondary schools in unadjusted dollars for the 1998-99 school year or any school year thereafter for Oklahoma, as reported by the National Center for Education Statistics annually in the Digest of Education Statistics, reaches at least ninety percent (90%) of the regional average expenditure for that same year, and funds are provided. For purposes of this section, the regional average expenditure shall consist of the current expenditure per pupil in average daily attendance in public elementary and secondary schools in unadjusted dollars for each of the following states: Arkansas, Colorado, Kansas, Missouri, New Mexico, Oklahoma, and Texas, averaged together. By January 1 of each year, the State Board of Education shall report whether or not the ninety-percent expenditure level has been reached based on information reported annually in the Digest of Education Statistics by the National Center for Education Statistics. This section shall be implemented on July 1 after the first January 1 report verifies that the ninety-

percent expenditure level has been reached and funds have been provided for the specific purposes of this section.

SECTION 17. AMENDATORY 70 O.S. 2001, Section 6-189.1, as amended by Section 1, Chapter 291, O.S.L. 2002 (70 O.S. Supp. 2002, Section 6-189.1), is amended to read as follows:

Section 6-189.1 A. Beginning July 1, 2000, no school district shall employ any teacher to teach mathematics in grades seven or eight, unless the teacher is licensed or certified to teach middle or secondary level mathematics or has received middle level endorsement pursuant to subsection B of this section. A school district may employ a teacher without such a license, certificate, or endorsement until September 1, 2003, if the teacher became licensed or certified to teach prior to September 1, 1999.

B. Any teacher who became licensed or certified to teach prior to September 1, 1999, does not have middle or secondary level certification in mathematics, and is serving in a school as a mathematics teacher for grades seven or eight shall be required to obtain middle level certification or middle level endorsement before September 1, 2003. For such teachers, middle level certification or middle level endorsement may be obtained as follows:

1. Middle level mathematics certification - A teacher may obtain middle level certification by successfully completing the appropriate Oklahoma Subject Area Test for middle level mathematics administered by the Oklahoma Commission for Teacher Preparation. The teacher shall not be required to take the Oklahoma Professional Teacher Examination for secondary students administered by the Oklahoma Commission for Teacher Preparation. A teacher granted middle level certification pursuant to this paragraph shall be entitled to teach mathematics in grades seven and eight for high school graduation credit; and

2. Middle level endorsement - A teacher may obtain a middle level endorsement by successfully completing a professional

development institute in middle level mathematics developed and administered by the Oklahoma Commission for Teacher Preparation. Any professional development institute developed pursuant to this paragraph shall meet the criteria as established in subsection G of this section. A teacher granted middle level endorsement pursuant to this paragraph shall not be entitled to teach mathematics for high school graduation credit.

C. Any teacher serving in a school as a mathematics teacher for grade six may obtain middle level endorsement by successfully completing a professional development institute in middle level mathematics developed pursuant to this section. ~~Such~~ Subject to the availability of funds appropriated by the Legislature for the purposes of this subsection, the teacher shall be eligible to participate in a professional development institute in middle level mathematics developed and administered by the Oklahoma Commission for Teacher Preparation one time free of charge.

D. ~~Any~~ Subject to the availability of funds appropriated by the Legislature for the purposes of this subsection, any teacher seeking middle level certification or middle level endorsement pursuant to subsection B of this section shall be eligible to take the Oklahoma Subject Area Test in middle level mathematics one time free of charge after July 1, 2000, or participate in a professional development institute in middle level mathematics developed and administered by the Oklahoma Commission for Teacher Preparation one time free of charge after July 1, 2000.

E. A teacher who is granted middle level certification in mathematics, pursuant to subsection B of this section, may teach grade nine only if the teacher successfully completes the Oklahoma Professional Teacher Examination for secondary students.

F. A teacher who is granted middle level endorsement pursuant to subsection B or C of this section may teach mathematics courses in grades seven or eight for high school credit only if the teacher

has completed a minimum of twenty-four college credit semester hours of mathematics as specified by the State Department of Education.

G. Any teacher who became licensed or certified to teach prior to September 1, 1999, did not have middle or secondary level certification in mathematics and successfully completed the appropriate Oklahoma Subject Area Test for middle level mathematics between July 1, 1999, and July 1, 2000, shall be granted a middle level certificate pursuant to subsection B of this section.

H. 1. Any professional development institute in middle level mathematics developed pursuant to this section and administered by the Oklahoma Commission for Teacher Preparation shall:

- a. consist of a minimum of thirty (30) clock hours,
- b. be competency based,
- c. emphasize effective learning practices,
- d. require collaboration among participants, and
- e. require each participant to prepare a work product which can be utilized in the classroom by the participant;

2. Any professional development institute in middle level mathematics developed pursuant to this section and administered by the Oklahoma Commission for Teacher Preparation shall be chosen through a competitive bid process, be reviewed by a professional development committee and other constituencies, and be subject to peer review. Invitations to bid for a professional development institute shall be open to any public or private entity.

SECTION 18. AMENDATORY 70 O.S. 2001, Section 6-195.1, is amended to read as follows:

Section 6-195.1 A. It is hereby declared to be the intent of the Legislature, subject to the availability of funds appropriated by the Legislature for the purposes of this subsection, to establish a continuing education program whereby teachers employed to teach mathematics may obtain certification in mathematics and teachers

certified to teach mathematics in the state may take higher education courses in order to obtain the competencies needed to enable the teacher to successfully complete the subject area examinations and become certified to teach any of the core curriculum mathematics courses recommended by the American College Test. The program shall pay up to One Hundred Dollars (\$100.00) per credit hour up to a maximum of twenty-four (24) credit hours for a teacher to take higher education courses in mathematics. Teachers required to gain certification as provided in Section 6-189.1 of this title shall be given priority in the funding for the continuing education program. The purpose of the program is to improve the knowledge and skills of teachers and to ensure that the children of the state are taught by professional educators, fully prepared in the area of mathematics.

B. Implementation of this section shall be delayed until the current expenditure per pupil in average daily attendance in public elementary and secondary schools in unadjusted dollars for the 1998-99 school year or any school year thereafter for Oklahoma, as reported by the National Center for Education Statistics annually in the Digest of Education Statistics, reaches at least ninety percent (90%) of the regional average expenditure for that same year, and funds are provided. For purposes of this section, the regional average expenditure shall consist of the current expenditure per pupil in average daily attendance in public elementary and secondary schools in unadjusted dollars for each of the following states: Arkansas, Colorado, Kansas, Missouri, New Mexico, Oklahoma, and Texas, averaged together. By January 1 of each year, the State Board of Education shall report whether or not the ninety-percent expenditure level has been reached based on information reported annually in the Digest of Education Statistics by the National Center for Education Statistics. This section shall be implemented on July 1 after the first January 1 report verifies that the ninety-

percent expenditure level has been reached and funds have been provided for the specific purposes of this section.

SECTION 19. AMENDATORY 70 O.S. 2001, Section 6-204.1, is amended to read as follows:

Section 6-204.1 For purposes of the Education Leadership Oklahoma Act:

1. "Salary bonus" means additional monies granted to teachers maintaining National Board certification subject to the availability of funds specifically appropriated by the Legislature to the State Board of Education for that purpose;

2. "Certification" means National Board certification;

3. "Commission" means the Oklahoma Commission for Teacher Preparation;

4. "National Board" means the National Board for Professional Teaching Standards; ~~and~~

5. "National Board certification" means National Board certification as provided by the National Board for Professional Teaching Standards; and

6. "Teacher" means a classroom teacher, counselor, or librarian employed by a public school district on a full-time basis.

SECTION 20. AMENDATORY 70 O.S. 2001, Section 6-204.2, as amended by Section 4, Chapter 236, O.S.L. 2002 (70 O.S. Supp. 2002, Section 6-204.2), is amended to read as follows:

Section 6-204.2 A. Subject to the availability of funds, the Oklahoma Commission for Teacher Preparation and the State Board of Education are authorized to establish the Education Leadership Oklahoma program.

B. The purposes of the Education Leadership Oklahoma program are:

1. Provide teachers throughout the state information about National Board certification and the Education Leadership Oklahoma program scholarships and services;

2. Provide technical assistance and National Board certified mentors to all teachers seeking National Board certification upon request;

3. Provide scholarships, pursuant to the Education Leadership Oklahoma Act and Oklahoma Commission for Teacher Preparation rules, for teachers seeking National Board certification;

4. Provide a bonus to teachers who achieve National Board certification pursuant to the Education Leadership Oklahoma Act and State Board of Education rules;

5. Reward teachers who achieve National Board certification without the financial support of the Education Leadership Oklahoma program by awarding them the application fee and the amount of the scholarship given to Education Leadership Oklahoma participants pursuant to this section and commission rules; and

6. Provide recognition to National Board certified teachers.

C. To fulfill the objectives of the Education Leadership Oklahoma Act, the Oklahoma Commission for Teacher Preparation shall:

1. Inform teachers of the Education Leadership Oklahoma program and the scholarships and services it provides to teachers seeking National Board certification;

2. Collect and review applications to the scholarship program from interested teachers;

3. Establish an applicant review committee for the purpose of identifying scholarship recipients pursuant to the Education Leadership Oklahoma Act for the Education Leadership Oklahoma program; and

4. Ensure that all scholarship recipients, alternates, and teachers seeking National Board certification independently receive adequate information regarding the level of commitment required to acquire National Board certification.

D. The applicant review committee shall:

1. Consist of:



- a. five classroom teachers appointed by the State Board of Education, at least one of whom shall be a National Board certified teacher, if available,
- b. five classroom teachers appointed by the Oklahoma Commission for Teacher Preparation, at least one of whom shall be a National Board certified teacher, if available,
- c. three classroom teachers appointed by the Oklahoma State Regents for Higher Education, at least one of whom shall be a National Board certified teacher, if available, and
- d. a chair to be designated by the Executive Director of the Oklahoma Commission for Teacher Preparation from among the appointed members; and

2. Select up to two hundred teachers for the 1999-00 class, up to four hundred teachers beginning with the 2000-01 class and every year thereafter, and the appropriate number of alternates, who:

- a. have demonstrated a commitment to excellence in teaching,
- b. meet all eligibility requirements for potential certification as established by the National Board for Professional Teaching Standards,
- c. are employed in an Oklahoma public school, and
- d. meet other requirements of the Commission.

E. Subject to the availability of funds appropriated by the Legislature for the purposes of this subsection, the application fee for National Board certification shall be paid for scholarship recipients by the Commission, and scholarship recipients shall be provided a scholarship in the amount of Five Hundred Dollars (\$500.00) to cover other expenses associated with obtaining National Board certification.

F. It is the intent of the Legislature that the Oklahoma Commission for Teacher Preparation contract with Southeastern Oklahoma State University to establish Education Leadership Oklahoma program training in higher education teacher preparation programs in the state to assist teachers in meeting the requirements to obtain National Board certification.

G. All teachers seeking National Board certification shall be eligible to participate in Education Leadership Oklahoma program training to assist them in meeting the requirements of the National Board certification process, free of charge.

H. The Oklahoma Commission for Teacher Preparation shall promulgate rules for the selection of scholarship recipients, the selection and utilization of alternates, the payment and reimbursement of application fees, and the issuance of scholarships.

I. Subject to district board of education policy or collective bargaining agreement, additional professional leave days may be granted to teachers seeking National Board certification for National Board certification portfolio development. During the two (2) days of the additional professional days granted to teachers for National Board certification portfolio development, a substitute teacher shall be provided by the school district at no cost to the teacher.

J. The State Board of Education shall provide all teachers who attain National Board certification a bonus in the amount of Five Thousand Dollars (\$5,000.00) annually no later than January 31 for as long as they maintain their National Board certification and are teaching in the classroom full-time in an Oklahoma public school. No school or school district shall be liable for payment of bonuses pursuant to this section.

K. The bonus shall not be included in the calculation of the teacher's salary for purposes of meeting the district or statutory

minimum salary schedule or for purposes of compensating Oklahoma Teachers' Retirement System contributions or benefits.

L. The State Board of Education shall promulgate rules for the provision of the bonus pursuant to this section to include, but not be limited to, a process by which a National Board certified teacher will verify that:

1. The National Board certification has not lapsed; and
2. The teacher is still a full-time ~~classroom~~ teacher.

M. It is the intent of the Legislature that the Oklahoma State Regents for Higher Education incorporate the National Board certification portfolio development into all programs in education leading to a master's level degree.

N. Upon implementation of this subsection as provided for in subsection O of this section and subject to the availability of funds appropriated by the Legislature for the purposes of this subsection, the State Board of Education shall provide all teachers who attain National Board certification a bonus in the amount of Seven Thousand Dollars (\$7,000.00) annually no later than January 31 for as long as they maintain their National Board certification and are ~~teaching in the classroom~~ a full-time teacher in an Oklahoma public school. No school or school district shall be liable for payment of bonuses pursuant to this section. Upon implementation, the bonus provided for in this subsection shall replace the bonus provided for in subsection J of this section.

O. Implementation of subsection N of this section shall be delayed until the current expenditure per pupil in average daily attendance in public elementary and secondary schools in unadjusted dollars for the 1998-99 school year or any school year thereafter for Oklahoma, as reported by the National Center for Education Statistics annually in the Digest of Education Statistics, reaches at least ninety percent (90%) of the regional average expenditure for that same year, and funds are provided. For purposes of this

subsection, the regional average expenditure shall consist of the current expenditure per pupil in average daily attendance in public elementary and secondary schools in unadjusted dollars for each of the following states: Arkansas, Colorado, Kansas, Missouri, New Mexico, Oklahoma, and Texas, averaged together. By January 1 of each year, the State Board of Education shall report whether or not the ninety-percent expenditure level has been reached based on information reported annually in the Digest of Education Statistics by the National Center for Education Statistics. Subsection N of this section shall be implemented on July 1 after the first January 1 report verifies that the ninety-percent expenditure level has been reached and funds have been provided for the specific purposes of the section.

SECTION 21. AMENDATORY 70 O.S. 2001, Section 18-108, is amended to read as follows:

Section 18-108. A. It is the intent of the Legislature to provide a free public kindergarten for every five-year-old child in this state.

B. Each day during which a child attends a kindergarten for two and one-half (2 1/2) hours or more shall be counted as one hundred percent (100%) of one (1) day of average daily attendance. Each day a kindergarten student is on the membership roll in a school district shall be counted as one hundred percent (100%) of one (1) day of average daily membership.

C. It shall be the duty of every school district in this state to provide and offer kindergarten free of tuition for every child residing in such district who attains the age of five (5) years on or before the first day of September during the school year such kindergarten is offered, provided that this duty may be satisfied by transferring kindergarten children to other school districts which accept them and provide kindergarten for such children, or by contracting for classroom space with a licensed public or licensed

private child care provider based upon selection criteria established by the district.

D. A kindergarten program may be offered jointly by school districts that have formed interlocal cooperative agreements pursuant to Section 5-117b of this title.

E. Upon implementation of this subsection as provided for in subsection G of this section and subject to the availability of funds appropriated by the Legislature for the purposes of this subsection, it shall be the duty of every school district in this state to provide and offer a full six-hour day of kindergarten free of tuition for every child residing in such district who attains the age of five (5) years on or before the first day of September during the school year such kindergarten is offered, provided that this duty may be satisfied by transferring kindergarten children to other school districts which will accept them and can provide kindergarten for such children, or by contracting for classroom space with a licensed public or licensed private child care provider based upon selection criteria established by the district. The requirement to offer a full six-hour day of kindergarten as provided for in this subsection shall not become effective until three (3) years after the provisions of this subsection are implemented as provided for in subsection G of this section and when funds are available.

F. Upon implementation of this subsection as provided for in subsection G of this section, the requirement to attend kindergarten provided in Section 10-105 of this title may be satisfied by attendance in either a half-day or full-day program. Membership in a kindergarten for either two and one-half (2 1/2) hours or six (6) hours per school day shall be counted as one (1) day for average daily membership purposes. For purposes of State Aid, the pupil grade level weight for a two-and-one-half-hour day of kindergarten shall be 1.3, and for a six-hour full day of kindergarten shall be 1.5.

G. Implementation of subsections E and F of this section shall be delayed until the current expenditure per pupil in average daily attendance in public elementary and secondary schools in unadjusted dollars for the 1998-99 school year or any school year thereafter for Oklahoma, as reported by the National Center for Education Statistics annually in the Digest of Education Statistics, reaches at least ninety percent (90%) of the regional average expenditure for that same year, and funds are provided. For purposes of this subsection, the regional average expenditure shall consist of the current expenditure per pupil in average daily attendance in public elementary and secondary schools in unadjusted dollars for each of the following states: Arkansas, Colorado, Kansas, Missouri, New Mexico, Oklahoma, and Texas, averaged together. By January 1 of each year, the State Board of Education shall report whether or not the ninety-percent expenditure level has been reached based on information reported annually in the Digest of Education Statistics by the National Center for Education Statistics. Subsections E and F of this section shall be implemented on July 1 after the first January 1 report verifies that the ninety-percent expenditure level has been reached and funds have been provided for the specific purposes of this section.

SECTION 22. AMENDATORY 70 O.S. 2001, Section 1210.508E, as amended by Section 2, Chapter 212, O.S.L. 2002 (70 O.S. Supp. 2002, Section 1210.508E), is amended to read as follows:

Section 1210.508E A. A Subject to the availability of funds appropriated by the Legislature for the purposes of this section, a teacher who determines a third-grade student is unable to meet competencies required for reading and mathematics for completion of third grade and promotion to fourth grade, shall have the authority to recommend that the promotion of the student to the fourth grade is contingent upon the participation in and successful completion of the required competencies for reading and mathematics by the student

at a summer academy. If the student does not successfully complete the competencies in the summer academy, the student shall be retained in the third grade. Summer academy programs shall be designed to ensure that participating students successfully complete the competencies necessary in reading and mathematics for promotion to fourth grade and to enhance next-grade readiness.

B. Beginning one (1) year after implementation of this section as provided for in subsection C of this section, the requirements of subsection A of this section shall be expanded to apply to fourth-grade students being promoted to fifth grade. Each year thereafter, the requirements shall be expanded by one grade level until the requirements apply to third-grade students through eighth-grade students. Summer academy programs shall be designed for each grade level.

C. Implementation of this section shall be delayed until the current expenditure per pupil in average daily attendance in public elementary and secondary schools in unadjusted dollars for the 1998-99 school year or any school year thereafter for Oklahoma, as reported by the National Center for Education Statistics annually in the Digest of Education Statistics, reaches at least ninety percent (90%) of the regional average expenditure for that same year, and funds are provided. For purposes of this section, the regional average expenditure shall consist of the current expenditure per pupil in average daily attendance in public elementary and secondary schools in unadjusted dollars for each of the following states: Arkansas, Colorado, Kansas, Missouri, New Mexico, Oklahoma, and Texas, averaged together. By January 1 of each year, the State Board of Education shall report whether or not the ninety-percent expenditure level has been reached based on information reported annually in the Digest of Education Statistics by the National Center for Education Statistics. This section shall be implemented on July 1 after the first January 1 report verifies that the ninety-

percent expenditure level has been reached and funds have been provided for the specific purposes of this section.

SECTION 23. AMENDATORY 70 O.S. 2001, Section 1210.569, is amended to read as follows:

Section 1210.569 A. Each school district shall be required to update and submit on an annual basis the student needs assessment and alternative education plan outlined in Section 1210.566 of this title. The alternative education plan of each school district shall provide for specific professional development programs for the teachers teaching in or working with an alternative education program. The annual needs assessment data shall be incorporated by the State Board of Education into an annual report which shall be submitted to the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the Governor. The report shall include a listing by school district of the number of students funded and the reported number of students served in an alternative education program.

B. By July 1 of each year, each school district shall submit an expenditure report to the State Department of Education listing all of the expenditures made by the school district for the alternative education program for the previous year.

C. Upon implementation of this subsection as provided for in subsection D of this section and subject to the availability of funds appropriated by the Legislature for the purposes of this subsection, each urban school district as defined in Section 1210.568 of this title and as 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 expand the annual student needs assessment and alternative education plan as required in subsection A of this section to include a needs assessment and education plan for elementary students who are at-risk and in need of alternative education.



D. Implementation of subsection C of this section shall be delayed until the current expenditure per pupil in average daily attendance in public elementary and secondary schools in unadjusted dollars for the 1998-99 school year or any school year thereafter for Oklahoma, as reported by the National Center for Education Statistics annually in the Digest of Education Statistics, reaches at least ninety percent (90%) of the regional average expenditure for that same year, and funds are provided. For purposes of this subsection, the regional average expenditure shall consist of the current expenditure per pupil in average daily attendance in public elementary and secondary schools in unadjusted dollars for each of the following states: Arkansas, Colorado, Kansas, Missouri, New Mexico, Oklahoma, and Texas, averaged together. By January 1 of each year, the State Board of Education shall report whether or not the ninety-percent expenditure level has been reached based on information reported annually in the Digest of Education Statistics by the National Center for Education Statistics. Subsection C of this section shall be implemented on July 1 after the first January 1 report verifies that the ninety-percent expenditure level has been reached and funds have been provided for the specific purposes of the section.

SECTION 24. AMENDATORY 70 O.S. 2001, Section 1210.710, is amended to read as follows:

Section 1210.710 A. It is hereby the intent of the Oklahoma Legislature to provide funding to urban school districts to hire school counselors at the elementary level. ~~Preference~~ Subject to the availability of funds appropriated by the Legislature for the purposes of this section, preference for funding shall be given to those urban school districts that have the highest number of elementary students at-risk and in need of alternative education. For purposes of this section, "urban school district" means a school

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

B. Implementation of this section shall be delayed until the current expenditure per pupil in average daily attendance in public elementary and secondary schools in unadjusted dollars for the 1998-99 school year or any school year thereafter for Oklahoma, as reported by the National Center for Education Statistics annually in the Digest of Education Statistics, reaches at least ninety percent (90%) of the regional average expenditure for that same year, and funds are provided. For purposes of this section, the regional average expenditure shall consist of the current expenditure per pupil in average daily attendance in public elementary and secondary schools in unadjusted dollars for each of the following states: Arkansas, Colorado, Kansas, Missouri, New Mexico, Oklahoma, and Texas, averaged together. By January 1 of each year, the State Board of Education shall report whether or not the ninety-percent expenditure level has been reached based on information reported annually in the Digest of Education Statistics by the National Center for Education Statistics. This section shall be implemented on July 1 after the first January 1 report verifies that the ninety-percent expenditure level has been reached and funds have been provided for the specific purposes of this section.

SECTION 25. This act shall become effective July 1, 2003.

SECTION 26. 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.

49-1-6962

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05/15/03