

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1767

By: Adair

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; stating criteria for guidelines; 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, Section 6-101, which relates to teacher contracts; changing contract notification dates; 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 6-200, which relates to professional development institutes; directing the Oklahoma Commission for Teacher Preparation to develop and offer certain professional development institutes; providing for certain criteria; 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, Section 6-204.2, as amended by Section 4, Chapter 236, O.S.L. 2002 (70 O.S. Supp. 2002, Section 6-204.2), which relates 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 26-105, as amended by Section 3, Chapter 282, O.S.L. 2002 (70 O.S. Supp. 2002, Section 26-105), which relates to the flexible

benefit allowance for school district employees; 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; 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 (3) members of the Oklahoma House of Representatives to be appointed by the Speaker of the House of Representatives and three (3) 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. Subject to the availability of funds, the study group shall be authorized to employ an independent consultant or other persons as necessary to assist the study group in the performance of its duties.

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 Sections 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 set forth in this section. 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 by February 1, 2004. Upon a showing that the sum of the district's State Aid revenues, as adjusted by the December calculation pursuant to subsection C of Section 18-200.1 of Title 70 of the Oklahoma Statutes, for the school year 2003-2004 plus the district's revenues from local and dedicated state revenue sources listed in subparagraph b of paragraph 1 of subsection D of Section 18-200.1 of Title 70 of the Oklahoma Statutes for school year 2003-2004 is at least four percent (4%) less than the sum of the district's State Aid revenues, as adjusted by the December calculation pursuant to subsection C of Section 18-200.1 of Title 70 of the Oklahoma Statutes, for school year 2002-2003, prior to any proration adjustment to State Aid revenue for the school year 2002-2003, plus the district's revenue from local and dedicated state revenue sources listed in subparagraph b of paragraph 1 of subsection D of Section 18-200.1 of Title 70 of the Oklahoma Statutes for school year 2002-2003, the Board shall consider the waiver application. The Board shall render a decision on an application no later than sixty (60) 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 study the issue of 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 small or medium-sized school district,
- 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,
- b. one classroom teacher, and
- c. one parent of a student in the public schools;

3. Four members who are either an owner, officer, or executive for a business or industry located in the state to be appointed by the Governor;

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 Floor 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, is amended to read as follows:

Section 6-101. A. Except as provided in subsection E of this section, no person shall be permitted to teach in any school district of the state without a written contract, except as provided herein for substitute teachers and except teachers of classes in adult education. The board of education of each school district, wherein school is expected to be conducted for the ensuing year, shall employ and contract in writing with qualified teachers for and in the name of the district. One copy of the contract shall be filed with the clerk of the board of education and one copy shall be retained by the teacher.

B. Except as otherwise provided by law, no board of education shall have authority to enter into any written contract with a teacher who does not hold a valid certificate issued or recognized by the State Board of Education authorizing ~~said~~ the teacher to teach the grades or subject matter for which the teacher is employed. Any board of education paying or authorizing the payment of the salary of any teacher not holding a certificate, as required ~~herein~~ in this subsection, shall be adjudged to be guilty of a fraudulent expenditure of public funds and members voting for ~~such~~ the payment shall be held jointly responsible for the return of the amount of any public monies thus expended, upon suit brought by the district attorney or by any interested citizen residing in the district where ~~such~~ the funds have been expended.

C. It shall be the duty of the superintendent of schools under whose supervision teachers have been contracted to teach to certify to the treasurer of the contracting district the names of the teachers holding valid certificates with whom contracts have been made and the names of substitute teachers employed in accordance with law. ~~Said~~ The treasurer shall not register any warrant issued in payment of salary to any teacher whose name is not included in ~~such~~ the list and shall be liable on the official bond for the treasurer for the amount of any warrant registered in violation of the provisions of this section.

D. Whenever any person shall enter into a contract with any school district in Oklahoma to teach in such school district the contract shall be binding on the teacher and on the board of education until the teacher legally has been discharged from the teaching position or released by the board of education from the contract. Until ~~such~~ the teacher has been ~~thus~~ discharged or released, the teacher shall not have authority to enter into a contract with any other board of education in Oklahoma for the same time covered by ~~his~~ the original contract. If upon written

complaint by the board of education ~~in~~ of a district, any teacher is reported to have failed to obey the terms of the contract previously made and to have entered into a contract with another board of education without having been released from the former contract, the teacher, upon being found guilty of ~~said~~ the charge at a hearing held before the State Board of Education, shall have ~~such teacher's~~ the certificate of the teacher suspended for the remainder of the term for which ~~said~~ the contract was made.

E. A board of education shall have authority to enter into written contracts with teachers for the ensuing fiscal year prior to the beginning of ~~such~~ the year. If, prior to ~~April 10~~ May 15, a board of education has not entered into a written contract with a regularly employed teacher or notified the teacher in writing by registered or certified mail that a recommendation has been made not to reemploy the teacher for the ensuing fiscal year, and if, by ~~April 25~~ May 30, ~~such~~ the teacher has not notified the board of education in writing by registered or certified mail that ~~such~~ the teacher does not desire to be reemployed in ~~such~~ the school district for the ensuing year, ~~such~~ the teacher shall be considered as employed on a continuing contract basis and on the same salary schedule used for other teachers in the school district for the ensuing fiscal year, and such employment and continuing contract shall be binding on the teacher and on the school district.

F. Whenever a school district is engaged in contract negotiations with teachers employed by that school district after the school year has begun and the teachers are employed on a continuing contract basis, the school district shall, beginning at the first of the school year, pay the teachers any state-mandated salary increases and salary schedule increases to which each teacher is otherwise entitled.

G. No school district or any member of the board of education of a district shall be liable for the payment of compensation to a

teacher or administrator under the provisions of any contract for the ensuing year, if it becomes necessary to close the school because of insufficient attendance, disorganization, annexation, consolidation, or by dispensing with the school according to law, ~~provided, such~~ if the cause is known or action is taken prior to July 1 of ~~such~~ the ensuing year.

H. No school district or any member of a board of education shall be liable for the payment of compensation to any teacher or administrator for the unexpired term of any contract if the school building to which the teacher or administrator has been assigned is destroyed by accident, storm, fire, or otherwise and it becomes necessary to close the school because of inability to secure a suitable building or buildings for continuation of school. Teachers and administrators shall be entitled to pay for any time lost when school is closed on account of epidemics or otherwise when an order for ~~such~~ the closing has been issued by a health officer authorized by law to issue the order.

SECTION 6. 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, principal, supervisor, vice 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 an opportunity to invoke the discretion of the decision maker at a meaningful time and in a meaningful manner after a recommendation for dismissal or nonreemployment of a career teacher has been made but before any final action is taken on the recommendation for the purpose of affording the teacher all rights guaranteed by the United States Constitution and the Oklahoma Constitution under circumstances and for enabling the board to determine whether to approve or disapprove the recommendation;

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 7. 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 an opportunity to invoke the discretion of the local board at a meaningful time and in a meaningful manner 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 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. 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 8. AMENDATORY 70 O.S. 2001, Section 6-200, is amended to read as follows:

Section 6-200. A. Subject to the availability of funds, the Oklahoma Commission for Teacher Preparation shall have authority to develop and administer training for residency committees and training for professional development through professional development institutes. Included in the professional development institutes training shall be technology training. Professional development institutes shall be accepted by the State Board of Education for professional development purposes and shall be defined as continuing education experiences which consist of a minimum of thirty (30) clock hours. The institutes shall be competency-based, emphasize effective learning practices, require collaboration among

participants, and require each participant to prepare a work product which can be utilized in the classroom by the participant. Any state professional development institutes administered by the Commission shall be chosen through a competitive bid process and if funds are available subject to peer review. The Commission, prior to offering any professional development institute, shall promulgate rules related to administering state professional development institutes.

B. With the funds appropriated in House Bill No. 1872 of the 1st Session of the 46th Oklahoma Legislature specifically for the purpose of funding professional development institutes in intensive elementary reading, the Oklahoma Commission for Teacher Preparation shall develop, offer and administer professional development institutes to train elementary school teachers in reading education. The funds shall be used for the cost of developing, administering and contracting for the professional development institutes. When possible, certified reading specialists shall be included as consultants. All costs of the institutes shall be included in the contract price and no tuition or registration fee shall be collected from teachers attending the institutes. The institutes shall be offered by or through the Commission. Working in conjunction with the State Department of Education, the Commission shall develop a state plan for administration of such institutes and shall report to the Governor and the Legislature on the format of and participation in the institutes. The State Department of Education shall cooperate with and provide any information requested to the Oklahoma Commission for Teacher Preparation as is necessary to carry out the provisions of this subsection. As additional funds become available for such purpose, the Commission shall develop and offer professional development institutes in mathematics for teachers in grades five through nine, the use of technology in the classroom,

training of residency committee members in teacher mentoring and in hands-on inquiry-based science for elementary teachers.

C. Subject to the availability of funds, the Oklahoma Commission for Teacher Preparation shall:

1. Make available in Fiscal Year 1999, a three-day follow-up professional development institute for teachers who participated in an elementary school reading professional development institute during Fiscal Year 1998;

2. Provide five-day initial professional development institutes in elementary school reading for elementary school teachers and instructional leaders;

3. Contract for an independent evaluation of the elementary school reading professional development institute; and

4. Provide continued support of the elementary school reading professional development institutes through ongoing teacher development at individual school sites. Funds may be used for the cost of mentor training, payment for substitute teachers, on-site facilitation, and any other costs necessary to ensure improved reading by students.

D. Subject to the availability of funds, the Oklahoma Commission for Teacher Preparation shall develop and offer professional development institutes to train school district superintendents, assistant superintendents, and school district business managers in business finance management. Any institute developed and offered pursuant to this subsection shall comply with the provisions of subsection A of this section.

SECTION 9. 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 10. 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 11. 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 12. 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 full-time 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 13. 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 14. AMENDATORY 70 O.S. 2001, Section 26-105, as amended by Section 3, Chapter 282, O.S.L. 2002 (70 O.S. Supp. 2002, Section 26-105), is amended to read as follows:

Section 26-105. A. The flexible benefit allowance shall be used by a school district employee who is participating in the

cafeteria plan to purchase major medical health care plan coverage offered by the school district through a cafeteria plan. Any excess flexible benefit allowance over the cost of the major medical coverage purchased by the employee who is participating in the cafeteria plan may be used to purchase any of the additional benefits offered by the school district or may be taken as taxable compensation as provided in subsection C of this section. Certified personnel who choose not to participate in the school-district-sponsored cafeteria plan shall receive Sixty-nine Dollars and seventy-one cents (\$69.71) per month as taxable compensation in lieu of the flexible benefit allowance amount provided in subsection B of this section. Support personnel who choose not to participate in the school-district-sponsored cafeteria plan shall receive One Hundred Eighty-nine Dollars and sixty-nine cents (\$189.69) per month as taxable compensation in lieu of the flexible benefit allowance amount provided in subsection B of this section.

B. Each eligible school district employee shall be credited annually with a specified amount as a flexible benefit allowance which shall be available for the purchase of benefits. The amount of the flexible benefit allowance credited to each eligible school district employee shall be communicated to the employee prior to the enrollment period for each plan year.

1. For the fiscal year ending June 30, 2002, the flexible benefit allowance amount for certified personnel shall be no less than Sixty-nine Dollars and seventy-one cents (\$69.71) per month. For the fiscal year ending June 30, 2002, the flexible benefit allowance amount for support personnel shall be no less than One Hundred Eighty-six Dollars and sixty-nine cents (\$186.69) per month.

2. ~~For~~ Subject to the availability of funds appropriated by the Legislature for purposes of this subsection, for the fiscal year ending June 30, 2003, the flexible benefit allowance amount for certified personnel shall be no less than fifty-eight percent (58%)

of the premium amount for the HealthChoice (Hi) option plan for an individual offered by the State and Education Employees Group Insurance Board. ~~For~~ Subject to the availability of funds appropriated by the Legislature for the purposes of this subsection, for the fiscal year ending June 30, 2003, and each fiscal year thereafter, the flexible benefit allowance amount for support personnel shall be no less than one hundred percent (100%) of the premium amount for the HealthChoice (Hi) option plan for an individual offered by the State and Education Employees Group Insurance Board.

3. ~~For~~ Subject to the availability of funds appropriated by the Legislature for the purposes of this subsection, for the fiscal year ending June 30, 2004, and each fiscal year thereafter, the flexible benefit allowance amount for certified personnel shall be no less than eighty-three percent (83%) of the premium amount for the HealthChoice (Hi) option plan for an individual offered by the State and Education Employees Group Insurance Board.

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

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

such school district employee shall make an irrevocable advance election for the plan year or the remainder thereof pursuant to such procedures as the school district shall prescribe.

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

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

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

SECTION 15. 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 16. 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 17. 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 18. Sections 1 through 13 and 15 through 17 of this act shall become effective July 1, 2003.

SECTION 19. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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