

ENROLLED SENATE
BILL NO. 2033

By: Coffee, Jolley, Ford, Rice
and Leftwich of the Senate

and

Benge and Shumate of the
House

An Act relating to schools; stating legislative finding; amending 70 O.S. 2001, Sections 5-141 and 5-141.2, which relate to teacher pay; authorizing school districts to adopt certain type of salary schedule; increasing maximum allowable incentive pay amount; authorizing implementation of certain incentive pay plans; providing requirements and procedures for the incentive pay plans; amending 70 O.S. 2001, Section 6-101.10, which relates to evaluation policy for teachers and administrators; modifying criteria upon which evaluations are based; clarifying individuals authorized to conduct evaluations; expanding authorized training; creating the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE); specifying components of TLE; requiring the State Department of Education to provide certain data to certain entities; defining a term; creating the Oklahoma Race to the Top Commission; specifying membership of the Commission; providing for administrative and operational matters of the Commission; specifying duties of the Commission; amending 70 O.S. 2001, Section 6-101.3, as amended by Section 8, Chapter 434, O.S.L. 2003 (70 O.S. Supp. 2009, Section 6-101.3), which relates to teacher definitions; modifying certain definitions; amending 70 O.S. 2001, Section 6-101.13, which relates to certified administrators; prohibiting the reemployment of a principal under certain

circumstances; amending 70 O.S. 2001, Sections 6-101.22, as amended by Section 1, Chapter 112, O.S.L. 2006, 6-101.24, 6-101.26, as last amended by Section 2, Chapter 112, O.S.L. 2006 and 6-101.27 (70 O.S. Supp. 2009, Sections 6-101.22 and 6-101.26), which relate to the Teacher Due Process Act of 1990; requiring career and probationary teachers to be dismissed or not reemployed under certain circumstances; expanding circumstances under which an administrator must take certain actions; clarifying time limit to file a trial de novo petition under certain circumstances; modifying time allowed for a board of education to serve its answer; modifying time period in which the trial de novo must be held; clarifying certain employment status and benefits continue throughout certain appeal process; limiting length of time certain compensation and benefits must be paid; specifying the significant basis to be used in a school district reduction-in-force plan; amending 70 O.S. 2001, Section 11-103.6a, as amended by Section 3, Chapter 289, O.S.L. 2002 (70 O.S. Supp. 2009, Section 11-103.6a), which relates to curriculum review; requiring the State Board of Education to adopt curriculum revisions for certain purposes; amending Section 1, Chapter 195, O.S.L. 2009 (70 O.S. Supp. 2009, Section 1210.544), as amended by Section 1 of Enrolled Senate Bill No. 509 of the 2nd Session of the 52nd Oklahoma Legislature, which relates to school alternative governance arrangements; requiring the State Board of Education to establish a process to identify a certain type of school; requiring certain school district boards of education to implement an intervention model for certain schools; specifying intervention models; allowing certain schools to complete an alternative governance arrangement; authorizing State Board of Education to delay implementation of certain provisions; requiring implementation of certain provisions by certain deadline; providing for codification; providing for noncodification; providing effective dates; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

Recognizing the potential for dramatically improving student achievement in this state due to the opportunity available through the federal Race to the Top program, the Legislature finds that all of the provisions of this act are necessary to support Oklahoma's application for the second round of federal Race to the Top funding.

SECTION 2. AMENDATORY 70 O.S. 2001, Section 5-141, is amended to read as follows:

Section 5-141. A. Each school district of this state shall adopt a minimum salary schedule and shall transmit a copy of it to the State Board of Education within thirty (30) days after adoption. A school district shall not calculate ~~teacher's~~ salaries of teachers solely as a proportion of the salaries of ~~that district's~~ the administrators of the district.

B. Districts shall be encouraged to provide compensation schedules to reflect district policies and circumstances, including differential pay for different subject areas and special incentives for teachers in districts with specific geographical attributes. Districts may also adopt a salary schedule that provides additional compensation for achieving certain ratings under the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) as set forth in Section 6 of this act. Any salary schedule adopted by a district pursuant to this section shall not set salaries at amounts less than those set pursuant to Section 18-114.12 of this title.

C. The State Department of Education shall compile a report of the minimum salary schedules for every school district in the state and shall ~~provide such information~~ submit the report to the Governor, Speaker of the House of Representatives, and President Pro Tempore of the Senate no later than December 15 of each year.

~~B-~~ D. Each school district shall file within fifteen (15) days of signing the contract, the employment contract of the superintendent of the school district with the State Department of Education. The Department shall keep all ~~such~~ contracts available

for inspection by the public. The school district shall not be authorized to pay any salary, benefits or other compensation to a superintendent which are not specified in the contract on file and shall not pay administrators any amounts for accumulated sick leave that are not calculated on the same formula used for determining payment for accumulated sick leave benefits for other full-time employees of that school district and shall not pay administrators any amounts for accumulated vacation leave benefits that are not calculated on the same formula used for determining payment for accumulated vacation leave benefits for other twelve-month full-time employees of that school district.

~~C.~~ E. By October 1 of each year each district board of education shall prepare a schedule of salaries and fringe benefits paid administrators employed by the district, including a description of the fringe benefits. The schedule shall be a public record and shall be disclosed as required by the Oklahoma Open Records Act, ~~Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes.~~ The ~~district~~ board shall file a copy of the schedule with the State Department of Education within one week of completion.

~~D.~~ F. For purposes of this section the term "administrator" shall include employees who are employed and certified as superintendents, assistant superintendents, principals, and assistant principals and who have responsibilities for supervising classroom teachers.

SECTION 3. AMENDATORY 70 O.S. 2001, Section 5-141.2, is amended to read as follows:

Section 5-141.2 A. ~~On or before September 1, 1990~~ In addition to incentive pay plans authorized pursuant to Section 4 of this act, the State Board of Education shall develop not fewer than five ~~(5)~~ different model incentive pay plans and shall distribute information about each plan to every school district board of education. No plan developed by the Board or implemented by ~~the local~~ a school district board of education shall permit payment in any one (1) year of incentives to any one teacher amounting to more than ~~twenty percent (20%)~~ fifty percent (50%) of ~~said teacher's~~ the regular salary of the teacher, exclusive of fringe benefits or extra duty pay. Any incentive pay award shall be an annual award and shall not be a part of a ~~teacher's~~ continuing contract of a teacher. Any

incentive pay awards received shall be excluded from ~~such teacher's~~ the compensation of a teacher for purposes of calculating retirement pursuant to the Teachers' Retirement System of Oklahoma, ~~established in Section 17-102 of Title 70 of the Oklahoma Statutes~~ and shall not be subject to taxes levied by the Federal Insurance Contributions Act (F.I.C.A.), to the extent ~~such an~~ an exemption is provided by federal law.

B. ~~Beginning with the 1991-92 school year, each~~ A school district board of education may adopt an academically based, district incentive pay plan for the ~~district's~~ classroom teachers in the district. The district may adopt any incentive pay plan consistent with the requirements of this section, which may include any incentive pay plan developed by the State Board of Education pursuant to this section. The ~~local~~ school district board of education shall appoint an advisory committee consisting of teachers, parents, business persons or farmers and other local citizens to advise the board in formulating an incentive pay plan. Prior to the adoption of ~~such a~~ a plan, the board of education shall place ~~such the~~ the plan on the school board agenda for public comment and shall submit the plan to the State Board of Education for final approval on or before March 1 prior to implementation of the plan during the succeeding school year. The board of education shall comply with the provisions of this subsection for any year a plan is to be modified.

C. ~~Beginning with the 1991-92 school year, a~~ A school district shall be required to adopt and implement an academically based, district incentive pay plan for any school year following the receipt by the school district board of education, of a petition signed by twenty percent (20%) of the classroom teachers employed in the district which calls for the adoption of an incentive pay plan for the district.

D. ~~Pupil~~ Student test scores shall not be the sole criterion for allocation of incentive pay under any plan developed or approved by the Board.

E. For the purposes of this section only, "classroom teacher" shall mean any employee who holds certification and assignment outside the classification of administrator.

F. The State Board of Education shall promulgate rules ~~and regulations~~ necessary for the effective implementation and administration of this section.

G. Each ~~local~~ school district board of education shall provide for a local evaluation committee which shall advise the board on which teachers are to receive incentive pay awards and the amount of each incentive pay award according to the plan.

H. Nothing herein shall preclude a school district from supplementing ~~to~~ any monies appropriated to ~~such~~ the district for the purposes of funding the district's incentive pay plan, of the district with monies from the district's general fund for the district.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-141.4 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. 1. In addition to incentive pay plans authorized pursuant to Section 5-141.2 of Title 70 of the Oklahoma Statutes, beginning with the 2012-13 school year, a school district may implement an incentive pay plan that rewards teachers who are increasing student and school growth in achievement.

2. Teacher performance shall be measured using the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) as set forth in Section 6 of this act.

3. Individual teacher incentive pay awards shall be based upon:

- a. achieving either a "superior" or "highly effective" rating under the TLE, and
- b. grade level, subject area, or school level performance success.

B. 1. Beginning with the 2012-13 school year, a school district may implement an incentive pay plan as authorized pursuant to this section.

2. For purposes of this section, "leader" means a principal, assistant principal or any other school administrator who is responsible for supervising classroom teachers.

3. School leader effectiveness shall be measured using the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) as set forth in Section 6 of this act.

4. Individual school leader incentive pay awards shall be based upon:

- a. achieving either a "superior" or "highly effective" rating under the TLE, and
- b. grade level, subject area, or school level performance success.

C. Incentive pay plans implemented pursuant to subsections A and B of this section shall be developed through a collaborative planning process involving stakeholders, including teachers and school leaders.

D. In addition to individual teacher and leader incentive pay plans, as authorized pursuant to this section, districts may develop and implement incentive pay systems for:

1. Teaching in critical shortage subject areas including, but not limited to, foreign language;

2. Teachers and leaders who work in low-performing schools as determined by the State Board of Education;

3. Teaching in the subject areas of Science, Technology, Engineering, and Math (STEM); or

4. Teachers and leaders who work in schools or school districts designated by the State Board of Education as hard-to-staff.

E. 1. Prior to implementation of any incentive pay plan developed pursuant to this section, the school district board of education shall place the plan on the agenda for public comment at a meeting of the district board of education.

2. After approval of the incentive pay plan, the school district board of education shall submit the plan to the State Board of Education for final approval. Within sixty (60) days of receipt of the plan, the State Board shall review and approve or reject the plan. If it is determined that the plan meets the requirements of this section, the State Board shall approve the plan. If the plan does not meet the requirements of this section, the State Board shall reject the plan and provide written notification to the school district board of education along with the grounds for rejection.

3. The district board of education shall comply with the provisions of this subsection for any year a plan is to be modified.

F. Any incentive pay award shall be an annual award and shall not be a part of a continuing contract for an employee. Any incentive pay award to any teacher or leader shall not exceed more than fifty percent (50%) of the regular salary of the teacher or leader, exclusive of fringe benefits or extra duty pay. Any incentive pay awards received shall be excluded from compensation for purposes of calculating retirement pursuant to the Teachers' Retirement System of Oklahoma and shall not be subject to taxes levied by the Federal Insurance Contributions Act (F.I.C.A.), to the extent such exemption is provided by federal law.

SECTION 5. AMENDATORY 70 O.S. 2001, Section 6-101.10, is amended to read as follows:

Section 6-101.10 A. Each school district board of education shall maintain and annually review, following consultation with or involvement of representatives selected by local teachers, a written policy of evaluation for all teachers and administrators. In those school districts in which there exists a professional negotiations agreement made in accordance with Sections 509.1 et seq. of this title, the procedure for evaluating members of the negotiations unit and any standards of performance and conduct proposed for adoption beyond those established by the State Board of Education shall be negotiable items. Nothing in this ~~act~~ section shall be construed to annul, modify or to preclude the renewal or continuing of any existing agreement heretofore entered into between any school district and any organizational representative of its employees. Every policy ~~se~~ of evaluation adopted by a board of education shall:

1. Be based upon a set of minimum criteria developed by the State Board of Education, which by no later than the 2013-14 school year, shall be revised and based upon the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) developed by the State Board of Education as provided in Section 6 of this act;

2. Be prescribed in writing at the time of adoption and at all times when amendments ~~thereto~~ to the policy are adopted. The original policy and all amendments to the policy shall be promptly made available to all persons subject to the policy;

3. Provide that all evaluations be made in writing and that evaluation documents and responses thereto be maintained in a personnel file for each evaluated person;

4. Provide that every probationary teacher be evaluated at least two times per school year, once prior to November 15 and once prior to February 10 of each year;

5. Provide that every teacher be evaluated once every year, except as otherwise provided by law; and

6. Provide that, except for superintendents of independent and elementary school districts and superintendents of area school districts, who shall be evaluated by the ~~local school district board of education~~, all certified personnel, ~~including administrators,~~ shall be evaluated by certified administrative personnel a principal, assistant principal, or other trained certified individual designated by the ~~local school district board of~~ education.

B. All ~~personnel~~ individuals designated by the ~~local school district~~ board of education to conduct the personnel evaluations shall be required to participate in training conducted by the State Department of Education or training provided by the school district using guidelines and materials developed by the State Department of Education prior to conducting ~~such~~ evaluations.

C. The State Department of Education shall develop and conduct workshops pursuant to statewide criteria which train ~~such administrative personnel~~ individuals in conducting evaluations.

D. The State Board of Education shall monitor compliance with the provisions of this section by ~~local~~ school districts.

E. Refusal by a ~~local~~ school district to comply with the provisions of this section shall be grounds for withholding State Aid funds until ~~such~~ compliance occurs.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-101.16 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. By December 15, 2011, the State Board of Education shall adopt a new statewide system of evaluation to be known as the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE).

B. The TLE shall include the following components:

1. A five-tier rating system as follows:

- a. superior,
- b. highly effective,
- c. effective,
- d. needs improvement, and
- e. ineffective;

2. Annual evaluations that provide feedback to improve student learning and outcomes;

3. Comprehensive remediation plans and instructional coaching for all teachers rated as needs improvement or ineffective;

4. Quantitative and qualitative assessment components measured as follows:

- a. fifty percent (50%) of the ratings of teachers and leaders shall be based on quantitative components which shall be divided as follows:

- (1) thirty-five percentage points based on student academic growth using multiple years of standardized test data, as available, and
 - (2) fifteen percentage points based on other academic measurements, and
- b. fifty percent (50%) of the rating of teachers and leaders shall be based on rigorous and fair qualitative assessment components;

5. An evidence-based qualitative assessment tool for the teacher qualitative portion of the TLE that will include observable and measurable characteristics of personnel and classroom practices that are correlated to student performance success, including, but not limited to:

- a. organizational and classroom management skills,
- b. ability to provide effective instruction,
- c. focus on continuous improvement and professional growth,
- d. interpersonal skills, and
- e. leadership skills;

6. An evidence-based qualitative assessment tool for the leader qualitative portion of the TLE that will include observable and measurable characteristics of personnel and site management practices that are correlated to student performance success, including, but not limited to:

- a. organizational and school management, including retention and development of effective teachers and dismissal of ineffective teachers,
- b. instructional leadership,
- c. professional growth and responsibility,

- d. interpersonal skills,
- e. leadership skills, and
- f. stakeholder perceptions; and

7. For those teachers in grades and subjects for which there is no state-mandated testing measure to create a quantitative assessment for the quantitative portion of the TLE, an assessment using objective measures of teacher effectiveness including student performance on unit or end-of-year tests. Emphasis shall be placed on the observed qualitative assessment as well as contribution to the overall school academic growth.

C. The Oklahoma Race to the Top Commission created in Section 7 of this act shall provide oversight and advise the State Board of Education on the development and implementation of the TLE.

D. The State Department of Education shall provide to the Oklahoma State Regents for Higher Education and the Oklahoma Commission for Teacher Preparation timely electronic data linked to teachers and leaders derived from the TLE for purposes of providing a basis for the development of accountability and quality improvements of the teacher preparation system. The data shall be provided in a manner and at such times as agreed upon between the Department, the State Regents and the Commission.

E. For purposes of this section, "leader" means a principal, assistant principal or any other school administrator who is responsible for supervising classroom teachers.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-101.17 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created to continue until July 1, 2016, in accordance with the provisions of the Oklahoma Sunset Law, the Oklahoma Race to the Top Commission.

B. The membership of the Commission shall consist of:

1. The Superintendent of Public Instruction, or designee;
2. A member of the Senate, appointed by the President Pro Tempore of the Senate;
3. A member of the House of Representatives, appointed by the Speaker of the House of Representatives;
4. A member of the Senate, appointed by the Minority Leader of the Senate;
5. A member of the House of Representatives, appointed by the Minority Leader of the House of Representatives;
6. A representative from the Office of the Governor or the executive cabinet, appointed by the Governor;
7. The Executive Director of the Oklahoma Commission for Teacher Preparation, or designee;
8. A representative of a technology center school district, appointed by the Director of the Oklahoma Department of Career and Technology Education;
9. A representative of an institution within The Oklahoma State System of Higher Education, appointed by the Chancellor of Higher Education;
10. A representative of a statewide organization representing school district boards of education, appointed by the President Pro Tempore of the Senate;
11. A representative of a statewide organization representing public school superintendents, appointed by the Speaker of the House of Representatives;
12. A representative of a statewide organization representing business and education, appointed by the President Pro Tempore of the Senate;

13. An individual employed by a business or company located in this state, appointed by the Speaker of the House of Representatives;

14. Three (3) representatives, one (1) from each of the three (3) largest statewide organizations representing active public school teachers, appointed by the Governor;

15. A representative of a statewide parent-teacher organization, appointed by the Governor;

16. A representative of a philanthropic organization involved in education, appointed by the Governor; and

17. An individual involved in Science, Technology, Engineering and Mathematics (STEM) education, appointed by the Governor.

C. Initial appointments pursuant to the provisions of this section shall be made no later than August 1, 2010. Members shall serve at the pleasure of the appointing authority. Vacancies shall be filled by the original appointing authority. The State Superintendent of Public Instruction, or designee, shall serve as chair of the Commission. Members of the Commission shall select a vice-chair from the membership of the Commission. Meetings of the Commission shall be held at the call of the chair. A majority of the members of the Commission shall constitute a quorum for the transaction of any business.

D. Members of the Commission shall receive no compensation for serving on the Commission, but shall receive travel reimbursement as follows:

1. State employees who are members of the Commission shall be reimbursed for travel expenses incurred in the performance of their duties by their respective agencies in accordance with the State Travel Reimbursement Act;

2. Legislative members shall be reimbursed in accordance with Section 456 of Title 74 of the Oklahoma Statutes; and

3. All other members of the Commission shall be reimbursed by the State Department of Education for travel expenses incurred in

the performance of their duties in accordance with the State Travel Reimbursement Act.

E. Staff support for the Commission shall be provided by the State Department of Education and the Oklahoma Commission for Teacher Preparation.

F. Members who serve on the Commission shall be exempt from the dual-office-holding prohibitions of Section 6 of Title 51 of the Oklahoma Statutes.

G. The Commission shall comply with the provisions of the Oklahoma Open Meeting Act and the Oklahoma Open Records Act.

H. The duties of the Commission, as specified in paragraphs 6 and 7 of subsection I of this section, shall not be contingent upon the state being selected to receive or the state actually receiving any federal Race to the Top funding.

I. The Commission shall:

1. Coordinate and report on the effort of the state to implement the federal Race to the Top program;

2. Work closely with members of the executive cabinet, the State Board of Education, executives of state agencies, and legislative leaders to determine the requirements imposed on and opportunities afforded to the state by the federal Race to the Top program, as well as the most efficient and productive use of Race to the Top funding;

3. Monitor the flow of federal Race to the Top program funds to ensure compliance with all requirements of the law and transparency of the process;

4. Ensure that adequate reporting and compliance mechanisms and safeguards regarding the federal Race to the Top program are in place;

5. Ensure full, thorough and easily accessible public disclosure of the use of all funds received under the federal Race to the Top program;

6. Monitor progress of results in areas described in the state Race to the Top plan, including:

- a. raising student achievement overall and by subgroup and closing gaps in achievement,
- b. adopting common high-quality curricular standards,
- c. supporting the transition to enhanced standards and high quality assessments,
- d. accessing and using state education data,
- e. using data to improve instruction,
- f. providing high-quality pathways for aspiring teachers and administrators,
- g. development of effectiveness measures for teachers and administrators,
- h. improving teacher and administrator effectiveness based on performance,
- i. ensuring equitable distribution of effective teachers and administrators,
- j. improving the effectiveness of teacher and administrator preparation programs,
- k. providing effective support to teachers and administrators,
- l. turning around the lowest-achieving schools, and
- m. ensuring successful conditions for high-performing charter school and other innovative schools; and

7. Provide oversight and advise the State Board of Education on the development and implementation of the Oklahoma Teacher and

Leader Effectiveness and Evaluation System (TLE) as created in Section 6 of this act, including:

- a. making recommendations to the State Board regarding the development and implementation of the TLE prior to adoption of any permanent rules or policies by the State Board,
- b. regularly reviewing progress toward development and implementation of the quantitative and qualitative measures that comprise the TLE,
- c. regularly reviewing progress toward timely access to student growth data,
- d. regularly reviewing the correlation between the quantitative and qualitative scores and other data to ensure that the TLE is being implemented with validity and that evaluations of individuals conducted by school districts are meaningful and demonstrate that reasonable distinctions are being made relating to performance,
- e. assuring input and participation from teachers and leaders on the development and implementation of the TLE,
- f. gathering public comment on the development and effectiveness of the TLE, and
- g. assuring that the TLE is based on research-based national best practices and methodology.

J. The Commission shall issue a report by December 31 of each year and submit a copy of the report to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

SECTION 8. AMENDATORY 70 O.S. 2001, Section 6-101.3, as amended by Section 8, Chapter 434, O.S.L. 2003 (70 O.S. Supp. 2009, Section 6-101.3), is amended to read as follows:

Section 6-101.3 As used in Section 6-101 et seq. of 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:

a. for teachers employed by a school district during the 2011-12 school year, has completed three (3) or more consecutive complete school years in such capacity as a teacher in one school district under a written continuing or temporary teaching contract, or

b. for teachers employed for the first time by a school district under a written continuing or temporary teaching contract on or after July 1, 2012:

(1) has completed three (3) consecutive complete school years as a teacher in one school district under a written continuing or temporary teaching contract and has achieved a rating of "superior" as measured pursuant to the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) as set forth in Section 6 of this act for at least two (2) of the three (3) school years, with no rating below "effective",

(2) has completed four (4) consecutive complete school years as a teacher in one school district under a written continuing or temporary teaching contract, has averaged a rating of at least "effective" as measured pursuant to the TLE for the four-year period, and has received a rating

of at least "effective" for the last two (2) years of the four-year period, or

(3) has completed four (4) or more consecutive complete school years in one school district under a written continuing or temporary teaching contract and has not met the requirements of subparagraph a or b of this paragraph, only if the principal of the school at which the teacher is employed submits a petition to the superintendent of the school district requesting that the teacher be granted career status, the superintendent agrees with the petition, and the school district board of education approves the petition. The principal shall specify in the petition the underlying facts supporting the granting of career status to the teacher;

5. "Probationary teacher hearing" means the hearing before a ~~local~~ school district 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~~ school district 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:

a. for teachers employed by a school district during the 2011-12 school year, has completed fewer than three (3) consecutive complete school years in such capacity

as a teacher in one school district under a written teaching contract, or

b. for teachers employed for the first time by a school district under a written teaching contract on or after July 1, 2012, has not met the requirements for career teacher as provided in paragraph 4 of this section;

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

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 9. AMENDATORY 70 O.S. 2001, Section 6-101.13, is amended to read as follows:

Section 6-101.13 A. Whenever the ~~local~~ school district board of education or the administration of a school district shall determine that the dismissal or nonreemployment of a full-time certified administrator from ~~his~~ the administrative position within the school district should be effected, the administrator shall be entitled to the following due process procedures:

1. A statement shall be submitted to the administrator in writing prior to the dismissal or nonreemployment which states the proposed action, lists the reasons for effecting the action, and notifies the administrator of his right to a hearing before the ~~local~~ school district board of education prior to the action; and

2. A hearing before the ~~local~~ school district board of education shall be granted upon the request of ~~such~~ the administrator prior to the dismissal or nonreemployment. A request for a hearing shall be submitted to the board of education not later than ten (10) days after the administrator has been notified of the proposed action.

B. Failure of the administrator to request a hearing before the ~~local~~ school district board of education within ten (10) days after receiving the written statement shall constitute a waiver of the right to a hearing. No decision of the ~~local~~ board of education concerning the dismissal or nonreemployment of a full-time certified administrator shall be effective until the administrator has been afforded due process as specified in this section. The decision of the ~~local~~ school district board of education concerning the dismissal or nonreemployment, following the hearing, shall be final.

C. A principal who has received a rating of "ineffective" as measured pursuant to the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) as set forth in Section 6 of this act for two (2) consecutive school years, shall not be reemployed by the school district, subject to the due process procedures of this section.

SECTION 10. AMENDATORY 70 O.S. 2001, Section 6-101.22, as amended by Section 1, Chapter 112, O.S.L. 2006 (70 O.S. Supp. 2009, Section 6-101.22), is amended to read as follows:

Section 6-101.22 A. Subject to the provisions of the Teacher Due Process Act of 1990, a career teacher may be dismissed or not reemployed for:

1. Willful neglect of duty;
2. Repeated negligence in performance of duty;
3. Mental or physical abuse to a child;
4. Incompetency;
5. Instructional ineffectiveness;
6. Unsatisfactory teaching performance;
7. Commission of an act of moral turpitude; or
8. Abandonment of contract.

B. Subject to the provisions of the Teacher Due Process Act of 1990, a probationary teacher may be dismissed or not reemployed for cause.

C. 1. A career teacher who has been rated as "ineffective" as measured pursuant to the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) as set forth in Section 6 of this act for two (2) consecutive school years shall be dismissed or not reemployed on the grounds of instructional ineffectiveness by the school district, subject to the provisions of the Teacher Due Process Act of 1990.

2. A career teacher who has been rated as "needs improvement" or lower pursuant to the TLE for three (3) consecutive school years shall be dismissed or not reemployed on the grounds of instructional ineffectiveness by the school district, subject to the provisions of the Teacher Due Process Act of 1990.

3. A career teacher who has not averaged a rating of at least "effective" as measured pursuant to the TLE over a five-year period shall be dismissed or not reemployed on the grounds of instructional ineffectiveness by the school district, subject to the provisions of the Teacher Due Process Act of 1990.

D. 1. A probationary teacher who has been rated as "ineffective" as measured pursuant to the TLE for two (2) consecutive school years shall be dismissed or not reemployed by the school district subject to the provisions of the Teacher Due Process Act of 1990.

2. A probationary teacher who has not attained career teacher status within a four-year period shall be dismissed or not reemployed by the school district, subject to the provisions of the Teacher Due Process Act of 1990.

E. A teacher shall be dismissed or not reemployed, unless a presidential or gubernatorial pardon has been issued, if during the term of employment the teacher is convicted in this state, the United States or another state of:

1. Any sex offense subject to the Sex Offenders Registration Act in this state or subject to another state's or the federal sex offender registration provisions; or

2. Any felony offense.

~~D.~~ F. A teacher may be dismissed, refused employment or not reemployed after a finding that such person has engaged in criminal sexual activity or sexual misconduct that has impeded the effectiveness of the individual's performance of school duties. As used in this subsection:

1. "Criminal sexual activity" means the commission of an act as defined in Section 886 of Title 21 of the Oklahoma Statutes, which is the act of sodomy; and

2. "Sexual misconduct" means the soliciting or imposing of criminal sexual activity.

~~E.~~ G. As used in this section, "abandonment of contract" means the failure of a teacher to report at the beginning of the contract term or otherwise perform the duties of a contract of employment when the teacher has accepted other employment or is performing work for another employer that prevents the teacher from fulfilling the obligations of the contract of employment.

SECTION 11. AMENDATORY 70 O.S. 2001, Section 6-101.24, is amended to read as follows:

Section 6-101.24 A. When a teacher receives a rating as measured pursuant to the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) as set forth in Section 6 of this act that may lead to a recommendation for the dismissal or nonreemployment of the teacher or when an administrator ~~who has the responsibility of evaluating a teacher~~ identifies poor performance or conduct that the administrator believes may lead to a recommendation for the ~~teacher's~~ dismissal or nonreemployment of the teacher, the administrator shall:

1. Admonish the teacher, in writing, and make a reasonable effort to assist the teacher in correcting the poor performance or conduct; and

2. Establish a reasonable time for improvement, not to exceed two (2) months, taking into consideration the rating on the evaluation or the nature and gravity of the teacher's performance or conduct.

B. If the teacher does not correct the poor performance or conduct cited in the admonition within the time specified, the administrator shall make a recommendation to the superintendent of the school district for the dismissal or nonreemployment of the teacher.

C. Whenever a member of the board of education, superintendent, or other administrator identifies poor performance or conduct that may lead to a recommendation for dismissal or nonreemployment of a teacher within the district, the administrator who has responsibility for evaluation of the teacher shall be informed, and that administrator shall comply with the procedures set forth in this section. If the administrator fails or refuses to admonish the teacher within ten (10) days after being so informed by the board, superintendent, or other administrator, such board, superintendent or other administrator shall admonish the teacher pursuant to the provisions of this section.

D. Repeated negligence in performance of duty, willful neglect of duty, incompetency, instructional ineffectiveness or unsatisfactory teaching performance, for a career teacher, or any cause related to inadequate teaching performance for a probationary teacher, shall not be a basis for a recommendation to dismiss or not reemploy a teacher unless and until the provisions of this section have been complied with.

SECTION 12. AMENDATORY 70 O.S. 2001, Section 6-101.26, as last amended by Section 2, Chapter 112, O.S.L. 2006 (70 O.S. Supp. 2009, Section 6-101.26), is amended to read as follows:

Section 6-101.26 A. Whenever a board of education receives a recommendation from the superintendent for the dismissal or nonreemployment of a teacher, the board or individual designated by the board shall mail a copy of the recommendation to the teacher by certified mail, restricted delivery, return receipt requested, by personal delivery to the teacher with a signed acknowledgement of

receipt, or by delivery by a process server. By the same means, the board shall notify the teacher of the 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 receipt of notice by the teacher, the date on the personal receipt by hand-delivery to the teacher, or the date of delivery by a process server. 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. The notice shall also specify the underlying facts supporting the recommendation. At the hearing, the teacher shall be entitled to all rights guaranteed under the circumstances by the United States Constitution and the Constitution of Oklahoma.

B. The career teacher pretermination hearing shall be conducted by the district board 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 the career teacher has a meaningful opportunity to respond to the recommendation for dismissal or nonreemployment at the pretermination hearing shall the board decide whether to accept or reject the recommendation of the superintendent. The vote made by the board shall be 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 accept the recommendation of the superintendent, the board shall include notification of 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 the decision. 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 the~~ 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 as provided in Section 6-101.27 of this title.~~ Such compensation and benefits shall not be provided during any further appeal process.

D. The probationary teacher hearing shall be conducted by the district 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 district 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 13. AMENDATORY 70 O.S. 2001, Section 6-101.27, is amended to read as follows:

Section 6-101.27 A. A career teacher shall be entitled to a trial de novo as set forth in subsection C of Section 6-101.26 of this title. If the teacher elects to petition for a trial de novo, the teacher shall file the petition within ten (10) days of receipt of notification of the right to a trial de novo from the board of education in the district court of the county in which the school district is located. ~~Within ten (10) days of receipt of the board's notification of said teacher's right to a trial de novo, the teacher shall file a petition for a trial de novo.~~

Upon filing the petition, the court clerk shall issue a summons and cause service by mail to be made to the clerk of the ~~local~~ school district board of education by certified mail, restricted delivery with return receipt requested or substitute process as provided by law.

B. If, within the ten-day period, the career teacher fails to file a petition for a trial de novo concerning the ~~teacher's~~ dismissal or nonreemployment of the teacher, the teacher shall be deemed to have waived the right to a trial de novo and the initial determination of the board of education shall be final.

C. The ~~local school~~ board of education shall serve its answer within ~~twenty (20)~~ ten (10) days of the service of summons and petition upon it. The trial de novo shall be scheduled at the earliest possible date which will permit both parties adequate time to prepare for a just trial of the issues involved, provided however, ~~said the~~ trial de novo shall be scheduled and held not less than ten (10) days and no later than ~~thirty (30)~~ forty (40) days after the answer has been filed.

D. Except as otherwise provided specifically in this section, the law generally applicable to civil suits filed in district court shall apply to the proceedings for trial de novo under this section. At the trial de novo the standard of proof shall be by the preponderance of the evidence and the burden of proof shall be on the school district superintendent or designee, as representative of the ~~local~~ board of education, to establish de novo that the ~~teacher's~~ dismissal or nonreemployment of the teacher is warranted. The trial de novo shall proceed as a nonjury trial before the court. The court shall determine de novo all issues of fact and law necessary for full adjudication of the dispute at the trial. The court shall not, by applying principles of collateral estoppel or res adjudicata or otherwise, give preclusive effect to findings of fact or determinations of the board of education with regard to the issues necessary to determine the adequacy of the dismissal or nonreemployment of the teacher in the trial de novo. Within three (3) days following the conclusion of the trial de novo, the judge shall prepare written findings of fact and conclusions of law and shall enter judgment directing either of the following:

1. That the ~~local~~ board of education reinstate the career teacher with full employment status and benefits effective immediately. The reinstatement with full employment status and benefits shall continue throughout any appeal process; or

2. That the decision of the ~~local~~ board of education for the dismissal or nonreemployment of the career teacher be sustained.

In addition, the court may enter an order awarding the prevailing party attorneys fees and costs.

E. The time limits set forth in this section for the proceedings before the district court may be extended by mutual agreement of the parties with the approval of the district court.

F. 1. Except as otherwise provided for in this subsection, the career teacher shall receive any compensation or benefits to which the teacher is entitled until sixty-three (63) days after the petition for trial de novo is filed by the career teacher or the judgment is entered in the trial de novo, whichever occurs first.

2. If the board of education, without the consent of the career teacher, takes actions or files motions which result in judgment in the trial de novo being entered more than sixty-three (63) days after the date the petition for trial de novo was filed, the career teacher shall be entitled to continue to receive compensation and benefits until judgment is entered.

3. If the career teacher, without the consent of the board of education, takes actions or files motions which result in judgment in the trial de novo being entered more than sixty-three (63) days after the date the petition for trial de novo was filed, the career teacher shall not be entitled to any compensation and benefits after sixty-three (63) days after the petition for trial de novo is filed by the career teacher.

4. If both the board of education and the career teacher take actions or file motions which result in judgment in the trial de novo being entered more than sixty-three (63) days after the date the petition for trial de novo was filed, the career teacher shall be entitled to receive compensation and benefits for an additional

time period equal to the time extensions requested by the board of education.

5. If the district court, without the mutual consent of the parties, takes action to reschedule or continue the trial de novo which results in judgment in the trial de novo being entered more than sixty-three (63) days after the date the petition for trial de novo was filed and the judgment entered directs the board of education to reinstate the career teacher, the career teacher shall be entitled to receive any back compensation and benefits which the career teacher would have normally received for the time period between sixty-three (63) days after the petition for trial de novo was filed by the career teacher and judgment is entered.

G. The decision of the district court shall be final and binding upon the teacher and the board of education unless the teacher or the board of education appeals the decision of the district court in the manner provided by law for the appeal of civil cases from the district court.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-101.31 of Title 70, unless there is created a duplication in numbering, reads as follows:

The primary basis used in determining the retention or reassignment of affected teachers and administrators when a school district implements a reduction-in-force plan shall be the ratings of the teachers and administrators as measured pursuant to the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) as set forth in Section 6 of this act.

SECTION 15. AMENDATORY 70 O.S. 2001, Section 11-103.6a, as amended by Section 3, Chapter 289, O.S.L. 2002 (70 O.S. Supp. 2009, Section 11-103.6a), is amended to read as follows:

Section 11-103.6a A. Each area of subject matter curriculum, except for technology curriculum, adopted by the State Board of Education for implementation by the beginning of the 2003-04 school year shall be thoroughly reviewed by the State Board every six (6) years according to and in coordination with the existing subject area textbook adoption cycle, and the State Board shall implement any revisions in such curriculum deemed necessary to achieve further

improvements in the quality of education for the students of this state.

B. By August 1, 2010, the State Board of Education shall adopt revisions to the subject matter curriculum adopted by the State Board for English Language Arts and Mathematics as is necessary to align the curriculum with the K-12 Common Core State Standards developed by the Common Core State Standards Initiative, an effort coordinated by the National Governors Association Center for Best Practices and the Council of Chief State School Officers. The revised curriculum shall reflect the K-12 Common Core State Standards in their entirety and may include additional standards as long as the amount of additional standards is not more than fifteen percent (15%) of the K-12 Common Core State Standards.

SECTION 16. AMENDATORY Section 1, Chapter 195, O.S.L. 2009 (70 O.S. Supp. 2009, Section 1210.544), as amended by Section 1 of Enrolled Senate Bill No. 509 of the 2nd Session of the 52nd Oklahoma Legislature, is amended to read as follows:

Section 1210.544 A. 1. The State Board of Education shall establish a process to identify schools in the state that are consistently listed as a persistently low-achieving school in accordance with subsection (g) (6) of Section 1003 of Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended. A school district board of education with a school identified as being among the persistently lowest-achieving schools in the state shall implement one of the following four intervention models for the school:

- a. turnaround model - replacing the principal and rehiring not more than fifty percent (50%) of the staff and granting to the principal sufficient operational flexibility to fully implement a comprehensive approach to substantially improve student outcomes,
- b. restart model - converting or closing the school and reopening it as a charter school under an operator or an education management organization that has been selected through a rigorous review process. Except for the average daily membership and county population

limitations specified in subsection A of Section 3-132 of this title, any charter school created pursuant to this subparagraph shall be subject to the provisions of the Oklahoma Charter Schools Act,

c. school closure - closing the school and enrolling the students who attended that school in other schools in the school district that are higher-achieving, or

d. transformation model - implementing each of the following strategies:

(1) replace the principal,

(2) develop and increase teacher and school-leader effectiveness,

(3) institute comprehensive instructional reform,

(4) increase learning time and create community-oriented schools, and

(5) provide operational flexibility and sustained support.

2. If a school identified as being among the persistently lowest-achieving schools in the state has already implemented an alternative governance arrangement within the last two (2) years prior to the identification, the school may continue implementation of the alternative governance arrangement.

B. 1. Notwithstanding any other provision of state law, for schools that are identified for school improvement by the State Board of Education for four (4) consecutive years, the district board of education shall implement one of the following alternative governance arrangements for the school in accordance with subparagraph (B) of subsection (b) (8) of Section 1116 of ~~Public Law No. 107-110~~ Title I of the Elementary and Secondary Education Act of 1965, as amended:

1. Reopening

a. reopening the school as a public charter school†. Except for the average daily membership and county population limitations specified in subsection A of Section 3-132 of this title, any charter school created pursuant to this subparagraph shall be subject to the provisions of the Oklahoma Charter Schools Act,

~~2. Replacing~~

b. replacing all or most of the school staff assigned to the school, which may include the principal, who are relevant to the failure to make adequate yearly progress and by transferring the replaced staff to another school or by dismissing or not reemploying the replaced staff in accordance with the provisions of the Teacher Due Process Act of 1990 or in accordance with subsection C of this section, if applicable†.

~~3. Entering~~

c. entering into a contract with an entity, such as a private management company, with a demonstrated record of effectiveness, to operate the public school†.

~~4. Turning~~

d. turning the operation of the school over to the State Board of Education†, or

~~5. Any~~

e. any other major restructuring of the governance arrangement of the school that makes fundamental reforms, such as significant changes in the staffing and governance of the school, to improve student academic achievement in the school and that has substantial promise of enabling the school to make adequate yearly progress. If the chosen governance arrangement does not produce adequate yearly progress within two (2) years from the date of implementation of the restructured governance arrangement, the State Board of Education shall assume control of the school

as provided for in paragraph 2 of this subsection ~~B of this section~~.

~~B. 2.~~ For any school that fails to comply with the provisions of paragraph 1 of this subsection ~~A of this section~~ by the end of the school year following its identification for school improvement for four (4) consecutive years, the State Board of Education shall assume control of the management and operations of the school, including control of the staff assigned to the school. The Board shall retain all funds that otherwise would have been allocated to the school district based on the average daily membership of the school which shall be used to operate the school.

C. 1. A district board of education for a district with an average daily membership of more than 30,000 which implements an alternative governance arrangement as provided in paragraph 2 of subsection A of this section may utilize the following procedures, upon approval of the district board and concurrence of the executive committee of the appropriate local bargaining unit:

- a. any teacher not retained at the school site shall be given status as a full-time substitute teacher within the school district for a period of not to exceed two (2) years,
- b. if the teacher is not offered a contract teaching position at a school in the district within the two-year period specified in subparagraph a of this paragraph, the district board shall be authorized to not reemploy the teacher, and
- c. the district board shall designate trained, certified, instructional staff to provide teacher support, development and evaluation, which may include certified personnel other than administrators.

2. Any actions taken pursuant to this subsection shall not be subject to the Teacher Due Process Act of 1990. The decision by the district board for renewal or nonrenewal shall be final.

3. For purposes of this subsection, a full-time substitute teacher shall perform the duties assigned by the district

superintendent and shall continue to receive the same salary, benefits and step increases that the teacher would otherwise be entitled to for the time period the teacher serves as a full-time substitute.

SECTION 17. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The State Board of Education may delay implementation of Sections 8 through 14 of this act for school districts which have not adopted a revised policy of evaluation as required pursuant to the provisions of Section 6-101.10 of Title 70 of the Oklahoma Statutes; provided, all school districts shall be required to implement the provisions of Sections 8 through 14 of this act no later than July 1, 2013.

SECTION 18. Sections 1 through 7 and 15 through 17 of this act shall become effective July 1, 2010.

SECTION 19. Sections 8 through 14 of this act shall become effective July 1, 2012.

SECTION 20. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 25th day of May, 2010.

Presiding Officer of the Senate

Passed the House of Representatives the 26th day of May, 2010.

Presiding Officer of the House
of Representatives