

THE HOUSE OF REPRESENTATIVES  
Monday, February 16, 2009

Committee Substitute for  
House Bill No. 2161

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2161 - By: KERN of the House and STANISLAWSKI of the Senate.

An Act relating to schools; amending 70 O.S. 2001, Section 5-117, as last amended by Section 6, Chapter 472, O.S.L. 2005 (70 O.S. Supp. 2008, Section 5-117), which relates to the powers and duties of a board of education; prohibiting certain speakers from speaking at certain teacher meetings for political purposes; and declaring an emergency.

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

- 1           SECTION 1.   AMENDATORY   70 O.S. 2001, Section 5-117, as last amended by  
2 Section 6, Chapter 472, O.S.L. 2005 (70 O.S. Supp. 2008, Section 5-117), is amended to  
3 read as follows:
- 4           Section 5-117. A. The board of education of each school district shall have power to:
- 5           1. Elect its own officers; provided that the chair of the board authorized in Section  
6 5-107B of this title shall be elected by the electors of the school district;
- 7           2. Make rules, not inconsistent with the law or rules of the State Board of  
8 Education, governing the board and the school system of the district;
- 9           3. Maintain and operate a complete public school system of such character as the  
10 board of education shall deem best suited to the needs of the school district;
- 11           4. Designate the schools to be attended by the children of the district;

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

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

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

15          8. a.           Insure the school district or its employees against any loss, damage or  
16 liability as defined by Sections 702 through 708 of Title 36 of the  
17 Oklahoma Statutes, or other forms of insurance provided for in Title 36  
18 of the Oklahoma Statutes.

19          b.           Subject to the restrictions of liability in the Governmental Tort Claims  
20 Act:

- 1 (1) insure the school district against all or any part of any liability  
2 it may incur for death, injury or disability of any person, or for  
3 damage to property, either real or personal,
- 4 (2) insure any employee of the school district against all or any part  
5 of the employee's liability for injury or damage resulting from an  
6 act or omission in the scope of employment, or
- 7 (3) insure against the expense of defending a claim against the  
8 school district or its employee, whether or not liability exists on  
9 such claim.
- 10 c. As used in this subsection, "employee" means any person who has  
11 acted in behalf of a school district, whether that person is acting on a  
12 permanent or temporary basis with or without being compensated or  
13 on a full-time or part-time basis. Employee also includes all elected or  
14 appointed officers, members of governing bodies of a school district,  
15 and persons appointed, and other persons designated by a school  
16 district to act in its behalf.
- 17 d. The cost or premium of any such insurance is a proper expenditure of  
18 the school district.
- 19 e. Any insurance authorized by law to be purchased, obtained or provided  
20 by a school district may be provided by:
- 21 (1) self-insurance, which may be, but is not required to be, funded  
22 by appropriations to establish or maintain reserves for self-

1 insurance purposes. Any self-insurance reserve fund shall be  
2 nonfiscal and shall not be considered in computing any levy  
3 when the school district makes its annual estimate for needed  
4 appropriations,

5 (2) insurance in any insurer authorized to transact insurance in  
6 this state,

7 (3) insurance secured in accordance with any other method  
8 provided by law, or

9 (4) any combination of insurance authorized by this section.

10 f. Two or more school districts or public agencies, by interlocal agreement  
11 made pursuant to the Interlocal Cooperation Act, may provide  
12 insurance for any purpose by any one or more of the methods specified  
13 in this section. The pooling of self-insured reserves, claims or losses  
14 among governments as authorized in this section shall not be  
15 construed to be transacting insurance nor otherwise subject to the  
16 provisions of the laws of this state regulating insurance or insurance  
17 companies. Two or more school districts may also be insured under a  
18 master policy or contract of insurance. Premium costs may be set  
19 individually for each school district or apportioned among participating  
20 school districts as provided by the master policy or contract;

21 9. Acquire property by condemnation proceedings in the same manner as land is  
22 condemned for railroad purposes. School district funds may be used to erect buildings on

1 leased land on which other buildings have been erected prior to April 3, 1969, or on land  
2 which is leased from a governmental entity;

3 10. Lease real or personal property to the state or any political subdivision thereof  
4 or a not-for-profit entity operating pursuant to Section 868 of Title 18 of the Oklahoma  
5 Statutes for nominal cash consideration for so long as the use of the property by the  
6 lessee substantially benefits, in whole or in part, the same public served by the school  
7 district;

8 11. Dispose of personal or real property no longer needed by the district by sale,  
9 exchange, lease, lease-purchase, sale and partial lease back, or otherwise. Real property  
10 shall be conveyed pursuant to a public sale, public bid, or private sale; provided however,  
11 unless otherwise prohibited by law, the board of education of a consolidated or annexed  
12 school district may convey real property to a local political subdivision without  
13 consideration. Prior to the sale of any real property, the board of education shall have  
14 the real property appraised. The appraisal shall be confidential until the real property is  
15 sold. When the real property is sold, the board of education shall make the appraisal  
16 available for public inspection. Prior to the conveyance of any real property by private  
17 sale, the board of education shall have offered the real property for sale by public sale or  
18 public bid. Any conveyance of real property by private sale to a nonprofit organization,  
19 association, or corporation to be used for public purposes, unless for exchange, shall  
20 contain a reversionary clause which returns the real property to the board of education  
21 upon the cessation of the use without profit or for public purposes by the purchaser or the  
22 assigns of the purchaser;

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

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

5           14. Contract with and fix the duties and compensation of physicians, dentists,  
6 optometrists, nurses, attorneys, superintendents, principals, teachers, bus drivers,  
7 janitors, and other necessary employees of the district;

8           15. Establish a written policy for reimbursement of necessary travel expenses of  
9 employees and members of the board. The policy may include in-district travel from the  
10 site of employment assignment which is necessary in the performance of employment  
11 duties. The written policy shall specify procedures, contain documentation requirements,  
12 and may include payment of meal expenses during authorized travel on a per diem  
13 allowance basis rather than itemized documentation;

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

19           17. Provide for employees' leaves of absence without pay;

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

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

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

13           21. Perform all functions necessary to the administration of a school district in  
14 Oklahoma as specified in the Oklahoma School Code, and in addition thereto, those  
15 powers necessarily implied but not delegated by law to any other agency or official;

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

18           23. Solicit and accept any gift, grant, or donation of money or property for the use  
19 of the school district. Any gift, grant, or donation of money may be deposited in the  
20 general fund or building fund of the school district; and

21           24. Pay necessary meal and lodging expenses of school district students and  
22 sponsors involved in authorized school-sponsored cocurricular activities. The board of

1 education shall establish a written policy for reimbursement of necessary meal and  
2 lodging expenses of school district students and sponsors. The written policy shall  
3 specify procedures, contain documentation requirements, and designate the funds from  
4 which reimbursement may be made. Reimbursement may be made from the General  
5 Fund.

6 B. The board of education of any school district may rent, on a monthly basis, real  
7 and personal property, if such items are necessary for the operation of the school, and  
8 pay the rental charges for the usage during any fiscal year, or portion thereof, out of  
9 appropriations made and approved for current expense purposes during the fiscal year.  
10 Any such rental contract extending beyond June 30 of such fiscal year shall be void  
11 unless it contains provisions for mutual ratification of renewal pursuant to the conditions  
12 provided for in this subsection. It is the intent of this subsection to authorize boards of  
13 education to enter into lease contracts but not to incur any obligation against the school  
14 district in excess of the income and revenue provided for such purposes for the fiscal year  
15 in which such lease contract is operative. Any lease or lease-purchase agreement entered  
16 into by any board of education shall state the purchase price of real or personal property  
17 so leased. The lease or lease-purchase shall not be extended so as to cause payment of  
18 more than the original purchase price of the real or personal property, plus interest not  
19 to exceed the legal rate. When the purchase price plus interest has been paid, the  
20 property shall belong to the lessee and the lessor shall deliver a deed or bill of sale to the  
21 property to the lessee. When any real or personal property has been leased or rented  
22 during any fiscal year pursuant to the provisions of any contract which permits

1 continuance of such rental for the remainder of such fiscal year, the renting or leasing  
2 thereof must be continued for the remainder of the fiscal year unless the board of  
3 education renting or leasing the same certifies by proper resolution entered in the  
4 minutes of the board of education that the continuance of such rental is unnecessary and  
5 contrary to the public interest.

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

1 D. The boards of education of two or more school districts may enter into a mutual  
2 contract or separate contracts with a superintendent, administrator, or teacher or with a  
3 person to provide support services, to serve as superintendent, administrator, or teacher,  
4 as appropriately qualified, or to provide support services, for each contracting district  
5 upon such terms and conditions as the parties may agree. Nothing in this act shall be  
6 construed to authorize or require annexation or consolidation of any school districts or  
7 the closing of any school site except pursuant to law as set forth in Section 7-101 et seq.  
8 of this title.

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

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

17 G. The board of education of a school district shall not allow a speaker or speakers,  
18 including but not limited to an employee of the school district, an employee organization,  
19 or a candidate for political office, to speak at an in-service or other similar teacher  
20 meeting or distribute material at the meeting for the purpose of influencing the results of  
21 an election for state or local office or a ballot measure or for the purpose of soliciting  
22 funds for or against a candidate for state or local office or a ballot measure.

1           SECTION 2. It being immediately necessary for the preservation of the public  
2 peace, health and safety, an emergency is hereby declared to exist, by reason whereof  
3 this act shall take effect and be in full force from and after its passage and approval.  
4 COMMITTEE REPORT BY: COMMITTEE ON COMMON EDUCATION, dated 02-12-09  
5 - DO PASS, As Amended and Coauthored.