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THE STATE SENATE  
Wednesday, April 1, 2009

Committee Substitute for  
ENGROSSED  
House Bill No. 2161

COMMITTEE SUBSTITUTE FOR ENGROSSED HOUSE BILL NO. 2161 - By: Kern,  
Reynolds and Enns 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  
distribution of certain material and speaking at certain  
teacher meetings for certain purposes; and providing an  
effective date.

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

SECTION 1. AMENDATORY 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), is amended to read as follows:

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

1. Elect its own officers; provided that the chair of the board  
authorized in Section 5-107B of this title shall be elected by the  
electors of the school district;

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

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

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

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

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

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

- 1           8. a.       Insure the school district or its employees against  
2                           any loss, damage or liability as defined by Sections  
3                           702 through 708 of Title 36 of the Oklahoma Statutes,  
4                           or other forms of insurance provided for in Title 36  
5                           of the Oklahoma Statutes.
- 6           b.       Subject to the restrictions of liability in the  
7                           Governmental Tort Claims Act:
- 8                       (1) insure the school district against all or any  
9                           part of any liability it may incur for death,  
10                          injury or disability of any person, or for damage  
11                          to property, either real or personal,
- 12                      (2) insure any employee of the school district  
13                          against all or any part of the employee's  
14                          liability for injury or damage resulting from an  
15                          act or omission in the scope of employment, or
- 16                      (3) insure against the expense of defending a claim  
17                          against the school district or its employee,  
18                          whether or not liability exists on such claim.
- 19           c.       As used in this subsection, "employee" means any  
20                          person who has acted in behalf of a school district,  
21                          whether that person is acting on a permanent or  
22                          temporary basis with or without being compensated or  
23                          on a full-time or part-time basis. Employee also

1 includes all elected or appointed officers, members of  
2 governing bodies of a school district, and persons  
3 appointed, and other persons designated by a school  
4 district to act in its behalf.

5 d. The cost or premium of any such insurance is a proper  
6 expenditure of the school district.

7 e. Any insurance authorized by law to be purchased,  
8 obtained or provided by a school district may be  
9 provided by:

10 (1) self-insurance, which may be, but is not required  
11 to be, funded by appropriations to establish or  
12 maintain reserves for self-insurance purposes.

13 Any self-insurance reserve fund shall be  
14 nonfiscal and shall not be considered in  
15 computing any levy when the school district makes  
16 its annual estimate for needed appropriations,

17 (2) insurance in any insurer authorized to transact  
18 insurance in this state,

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

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

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

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

21 10. Lease real or personal property to the state or any  
22 political subdivision thereof or a not-for-profit entity operating  
23 pursuant to Section 868 of Title 18 of the Oklahoma Statutes for

1 nominal cash consideration for so long as the use of the property by  
2 the lessee substantially benefits, in whole or in part, the same  
3 public served by the school district;

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

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

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

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

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

19           16. Pay necessary travel expenses and other related expenses of  
20 prospective employees for sponsored visits to the school district  
21 pursuant to a written policy specifying procedures containing  
22 documentation requirements equal to or greater than the requirements

1 specified by law for state employees in the State Travel  
2 Reimbursement Act;

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

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

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

13 20. Enter into contractual agreements with the board of  
14 trustees of a multicounty library system, as defined in Section 4-  
15 103 of Title 65 of the Oklahoma Statutes, a city-county library  
16 commission, as defined in Section 152 of Title 65 of the Oklahoma  
17 Statutes, or a rural single county library system, as defined in  
18 Section 1-104 of Title 65 of the Oklahoma Statutes, on such terms as  
19 may be mutually agreed, except no district board of education may  
20 enter into any agreement under which the library services for the  
21 school would be provided at any site other than the school site or  
22 which would result in library services that do not meet  
23 accreditation standards as required by law or rule;

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

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

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

12           24. Pay necessary meal and lodging expenses of school district  
13 students and sponsors involved in authorized school-sponsored  
14 cocurricular activities. The board of education shall establish a  
15 written policy for reimbursement of necessary meal and lodging  
16 expenses of school district students and sponsors. The written  
17 policy shall specify procedures, contain documentation requirements,  
18 and designate the funds from which reimbursement may be made.  
19 Reimbursement may be made from the General Fund.

20           B. The board of education of any school district may rent, on a  
21 monthly basis, real and personal property, if such items are  
22 necessary for the operation of the school, and pay the rental  
23 charges for the usage during any fiscal year, or portion thereof,

1 out of appropriations made and approved for current expense purposes  
2 during the fiscal year. Any such rental contract extending beyond  
3 June 30 of such fiscal year shall be void unless it contains  
4 provisions for mutual ratification of renewal pursuant to the  
5 conditions provided for in this subsection. It is the intent of  
6 this subsection to authorize boards of education to enter into lease  
7 contracts but not to incur any obligation against the school  
8 district in excess of the income and revenue provided for such  
9 purposes for the fiscal year in which such lease contract is  
10 operative. Any lease or lease-purchase agreement entered into by  
11 any board of education shall state the purchase price of real or  
12 personal property so leased. The lease or lease-purchase shall not  
13 be extended so as to cause payment of more than the original  
14 purchase price of the real or personal property, plus interest not  
15 to exceed the legal rate. When the purchase price plus interest has  
16 been paid, the property shall belong to the lessee and the lessor  
17 shall deliver a deed or bill of sale to the property to the lessee.  
18 When any real or personal property has been leased or rented during  
19 any fiscal year pursuant to the provisions of any contract which  
20 permits continuance of such rental for the remainder of such fiscal  
21 year, the renting or leasing thereof must be continued for the  
22 remainder of the fiscal year unless the board of education renting  
23 or leasing the same certifies by proper resolution entered in the

1 minutes of the board of education that the continuance of such  
2 rental is unnecessary and contrary to the public interest.

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

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

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

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

21 G. The board of education of a school district shall not allow  
22 any individual or organization to speak or distribute material at an  
23 in-service or other similar teacher meeting for which attendance is

1 required by the district, when the information shared is for the  
2 purpose of:

3 1. Influencing the results of an election for state or local  
4 office or a ballot measure, excluding school bond elections; or

5 2. Soliciting funds for or against a candidate for state or  
6 local office or a ballot measure.

7 SECTION 2. This act shall become effective November 1, 2009.

8 COMMITTEE REPORT BY: COMMITTEE ON EDUCATION, dated 3-30-09 - DO  
9 PASS, As Amended.