

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 2673

By: Echols

COMMITTEE SUBSTITUTE

An Act relating to schools; reallocating State Aid for certain transfer students; authorizing transfer allowance to private school for students enrolled in certain F-graded schools; providing transfer allowance requirements; authorizing transfer allowance for certain time period; requiring certain financial responsibility; requiring certain notice of under certain wait list circumstances; defining term; providing approved private school requirements; providing transferring student requirements; providing payments procedure for transfer allowance; authorizing revocation of private school approval; eliminating liability; prohibiting certain additional regulation of private schools; amending 70 O.S. 2011, Section 18-201.1, as last amended by Section 3, Chapter 61, O.S.L. 2020 (70 O.S. Supp. 2020, Section 18-201.1), which relates to State Aid; adding certain student weight for State Aid; amending 70 O.S. 2011, Section 8-104, as amended by Section 1, Chapter 85, O.S.L. 2013 (70 O.S. Supp. 2020, Section 8-104), which relates to student transfers; adding reason for emergency transfer; providing for codification; and providing an effective date.

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

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 8-114 of Title 70, unless there
3 is created a duplication in numbering, reads as follows:

4 If a student transfers to a school district other than the
5 district of residence pursuant to paragraph 9 of subsection A of
6 Section 8-104 of Title 70 of the Oklahoma Statutes, upon approval of
7 the transfer, the receiving district shall claim the student in the
8 average daily membership for state and federal funding purposes and
9 shall assume all responsibility for education of the student. For
10 state funding purposes, the State Department of Education shall
11 include the appropriate grade level weight and all category weights
12 to which the pupil is assigned pursuant to the provisions of Section
13 18-201.1 of Title 70 of the Oklahoma Statutes when calculating State
14 Aid pursuant to the provisions of Section 18-200.1 of Title 70 of
15 the Oklahoma Statutes.

16 SECTION 2. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 8-115 of Title 70, unless there
18 is created a duplication in numbering, reads as follows:

19 A. If a student is enrolled at resident school that has
20 received an "F" school grade pursuant to Section 1210.545 of this
21 title in each of the last three (3) immediately preceding years
22 intends to transfer to a private school, the parent or legal
23 guardian of the student may exercise his or her parental option and
24

1 request to have a transfer allowance awarded for the child to enroll
2 in and attend a private school in accordance with this section.

3 B. A transfer allowance shall be awarded pursuant to this
4 section if the parent or legal guardian has obtained acceptance for
5 admission of the student to an approved private school pursuant to
6 subsection C of this section and has notified the State Department
7 of Education of the request for a transfer allowance.

8 1. Requests for a transfer allowance made after December 1
9 shall be granted, but funding for transfer allowances requested
10 after December 1 shall not be available until the beginning of the
11 next school year. The request shall be through a communication
12 directly to the Department in a manner that creates a written or
13 electronic record of the request and shall include the date of
14 receipt of the request. The Department shall notify the school
15 district upon receipt of the request.

16 2. For purposes of continuity of educational choice, the
17 transfer allowance shall remain in force until the student returns
18 to a public school, graduates from high school or reaches the age of
19 twenty-two (22), whichever occurs first. At any time, the parent or
20 legal guardian of the student may remove the student from the
21 private school and place the student in another private school
22 approved by the State Department of Education as provided in
23 subsection C of this section or place the student in a public
24 school.

1 3. Upon acceptance of a transfer allowance, the parent or legal
2 guardian shall assume full financial responsibility for the
3 education of the student, including, but not limited to,
4 transportation to and from the private school.

5 4. If the parent or legal guardian requests a transfer
6 allowance and the student is accepted by the private school pending
7 the availability of a space for the student, the parent or legal
8 guardian of the student shall notify the State Department of
9 Education before entering the private school and before December 1
10 in order to be eligible for the transfer allowance during the school
11 year when a space becomes available for the student in the private
12 school. If notification is made after December 1, payment of the
13 transfer allowance shall not begin until the next school year.

14 C. For purposes of this section, "private school" shall mean a
15 school approved by the State Department of Education. The State
16 Department of Education shall approve a private school upon request
17 by the private school and determination that the private school:

18 1. Meets the accreditation requirements set by the State Board
19 of Education or another accrediting association approved by the
20 State Board of Education. The State Department of Education shall
21 list on its website all accrediting associations approved by the
22 Board;

23 2. Demonstrates fiscal soundness by having been in operation
24 for one (1) school year or providing the State Department of

1 Education with a statement by a certified public accountant
2 confirming that the private school is insured and the owner or
3 owners have sufficient capital or credit to operate the school for
4 the upcoming year by serving the number of students anticipated with
5 expected revenues from tuition and other sources that may be
6 reasonably expected. In lieu of a statement, a surety bond or
7 letter of credit for the amount equal to the transfer allowance
8 funds for any quarter may be filed with the Department;

9 3. Complies with the antidiscrimination provisions of 42
10 U.S.C., Section 2000d;

11 4. Meets state and local health and safety laws and codes;

12 5. Will be academically accountable to the parent or legal
13 guardian for meeting the educational needs of the student;

14 6. Employs or contracts with teachers who hold baccalaureate or
15 higher degrees, or have at least three (3) years of teaching
16 experience in public or private schools, or have special skills,
17 knowledge or expertise that qualifies them to provide instruction in
18 subjects taught;

19 7. Complies with all state laws relating to general regulation
20 of private schools; and

21 8. Adheres to the tenets of its published disciplinary
22 procedures prior to the expulsion of a student.

23 D. Upon approval of a private school, the State Department of
24 Education shall provide on its website all information and material

submitted by the private school with its application. Students transferring pursuant to this section shall comply with the following:

1. The parent or legal guardian shall select the private school from the schools approved pursuant to subsection C of this section and apply for the admission of the child;

2. The parent or legal guardian shall request the transfer allowance no later than December 1 of the school year during which the transfer allowance is requested;

3. Any student receiving a transfer allowance pursuant to this section shall attend the school throughout the school year, unless excused by the school for illness or other good cause, and shall comply fully with the code of conduct for the school;

4. The parent or legal guardian shall fully comply with the parental involvement requirements of the private school, unless excused by the school for illness or other good cause; and

5. Upon issuance of a transfer allowance, the parent or legal guardian to whom the allowance is made shall restrictively endorse the funds to the private school for deposit into the account of the private school. The parent or legal guardian may not designate any entity or individual associated with the private school as the attorney in fact for the parent or legal guardian to endorse an allowance. A parent or legal guardian who fails to comply with this paragraph shall forfeit the transfer allowance.

1 E. Provisions governing payment of a transfer allowance shall
2 be as follows:

3 1. The State Department of Education shall calculate the total
4 cost of all transfer allowances for all eligible students in the
5 state. The State Department of Education shall then reserve or
6 retain from the total amount appropriated to the State Board of
7 Education for State Aid purposes and any other revenue available for
8 allocation for State Aid purposes the total cost for all transfer
9 allowance payments;

10 2. The maximum transfer allowance granted for an eligible
11 student shall be a calculated amount equivalent to the total State
12 Aid factors for the applicable school year multiplied by the grade
13 and disability weights, if applicable, generated by that student for
14 the applicable school year. The maximum transfer allowance amount
15 shall be calculated by the State Board of Education for each year
16 the student receives a transfer allowance;

17 3. The amount of the transfer allowance shall be the amount
18 calculated in paragraph 2 of this subsection or the amount of
19 tuition and fees for the private school, whichever is less, minus up
20 to two and one-half percent (2 1/2%) of the transfer allowance
21 amount which may be retained by the State Department of Education as
22 a fee for administrative services rendered. The amount of the
23 transfer allowance shall be prorated to reflect the number of days
24

1 remaining in the current school year, if the transfer allowance
2 request is granted after the beginning of the school year;

3 4. The State Department of Education shall notify the private
4 school of the amount of the transfer allowance within ten (10) days
5 after receiving the request for a transfer allowance, when the total
6 State Aid factors have been determined for the current fiscal year.
7 The initial payment shall be made after the Department verifies
8 admission acceptance and enrollment. Quarterly payments shall be
9 made upon verification of continued enrollment and attendance at the
10 private school. Payment shall be made by the Department with an
11 individual warrant made payable to the parent or legal guardian of
12 the student and mailed by the Department to the private school that
13 the parent or legal guardian chooses. The parent or legal guardian
14 shall restrictively endorse the warrant to the private school for
15 deposit into the account of the private school;

16 5. The State Department of Education shall require an annual,
17 notarized, sworn compliance statement by participating private
18 schools certifying compliance with state laws and shall retain all
19 records received from a participating private school. The State
20 Department of Education shall post on its website the annual
21 compliance statement for each participating private school; and

22 6. The State Department of Education shall cross-check the list
23 of participating students with the public school enrollments prior
24 to each transfer allowance payment to avoid duplication.

1 F. The State Board of Education shall deny, suspend or revoke
2 the approval of a private school granted in subsection C of this
3 section if it is determined that the private school has failed to
4 comply with the provisions of this section.

5 G. No liability shall arise on the part of the state, the State
6 Board of Education, the State Department of Education or a school
7 district based on the award or use of any transfer allowance
8 provided pursuant to this section.

9 H. The inclusion of private schools within options available to
10 public school students in Oklahoma shall not expand the regulatory
11 authority of the state or any school district to impose any
12 additional regulation of private schools beyond those reasonably
13 necessary to enforce the requirements expressly set forth in this
14 section.

15 SECTION 3. AMENDATORY 70 O.S. 2011, Section 18-201.1, as
16 last amended by Section 3, Chapter 61, O.S.L. 2020 (70 O.S. Supp.
17 2020, Section 18-201.1), is amended to read as follows:

18 Section 18-201.1 A. Beginning with the 2020-21 school year,
19 and each school year thereafter, the weighted membership of a school
20 district for calculation of Foundation Aid purposes pursuant to
21 paragraph 1 of subsection D of Section 18-200.1 of this title shall
22 be the sum of the weighted pupil grade level calculation, the
23 weighted pupil category calculation, the weighted district
24 calculation and the weighted teacher experience and degree

1 calculation. The weighted membership of a school district for
2 calculation of Salary Incentive Aid purposes pursuant to paragraph 3
3 of subsection D of Section 18-200.1 of this title shall be the sum
4 of the weighted pupil grade level calculation, the weighted pupil
5 category calculation, the weighted district calculation and the
6 weighted teacher experience and degree calculation.

7 B. The weighted calculations provided for in subsection A of
8 this section shall be based on the highest weighted average daily
9 membership of the first nine (9) weeks of the current school year,
10 the preceding school year or the second preceding school year of a
11 school district, unless otherwise specified. The highest of the
12 three (3) weighted average daily memberships shall be used
13 consistently in all of the calculations; however, the weighted
14 calculation for a statewide virtual charter school experiencing a
15 significant decline in membership shall be based on the first nine
16 (9) weeks of the current school year and not on the preceding school
17 year or the second preceding school year for the statewide virtual
18 charter school. For purposes of this subsection, "significant
19 decline in membership" means equal to or greater than a fifteen
20 percent (15%) decrease in average daily membership from the
21 preceding school year to the average daily membership of the first
22 nine (9) weeks of the current school year. The average daily
23 membership data used for all calculations in paragraphs 1, 2, 3 and
24 4 of this subsection shall be the same as used in the calculation of

the State Aid Formula. The weighted calculations provided for in subsection A of this section shall be determined as follows:

1. The weighted pupil grade level calculation shall be determined by taking the highest average daily membership and assigning weights to the pupils according to grade attended as follows:

GRADE LEVEL	WEIGHT
a. Half-day early childhood programs	.7
b. Full-day early childhood programs	1.3
c. Half-day kindergarten	1.3
d. Full-day kindergarten	1.5
e. First and second grade	1.351
f. Third grade	1.051
g. Fourth through sixth grade	1.0
h. Seventh through twelfth grade	1.2
i. Out-of-home placement	1.50

Multiply the membership of each subparagraph of this paragraph by the weight assigned to such subparagraph of this paragraph and add the totals together to determine the weighted pupil grade level calculation for a school district. Determination of the pupils eligible for the early childhood program weight shall be pursuant to the provisions of Section 1-114 of this title. The pupils eligible for the out-of-home placement pupil weight shall be students who are not residents of the school district in which they are receiving

1 education pursuant to the provisions of subsection D of Section 1-
2 113 of this title. Such weight may be claimed by the district
3 providing educational services to such student for the days that
4 student is enrolled in that district. If claimed, the out-of-home
5 placement weight shall be in lieu of the pupil grade level and any
6 pupil category weights for that student. Provided, if a student
7 resides in a juvenile detention center that is restricted to less
8 than twelve (12) beds, the out-of-home placement pupil weight for
9 such students shall be calculated as follows: for a center with six
10 (6) beds - 3.0; for a center with eight (8) beds - 2.3 and for a
11 center with ten (10) beds - 1.80.

12 2. The weighted pupil category calculation shall be determined
13 by assigning a weight to the pupil category as follows:

14	CATEGORY	WEIGHT
15	a. Visual Impairment	3.8
16	b. Specific Learning Disability	.4
17	c. Deafness or Hearing Impairment	2.9
18	d. Deaf-Blindness	3.8
19	e. Intellectual Disability	1.3
20	f. Emotional Disturbance	2.5
21	g. Gifted	.34
22	h. Multiple Disabilities	2.4
23	i. Orthopedic Impairment	1.2
24	j. Speech or Language Impairment	.05

k.	Bilingual	.25
l.	Special Education Summer Program	1.2
m.	Economically Disadvantaged	.25
n.	Optional Extended School Year Program	As determined by the State Board of Education
o.	Autism	2.4
p.	Traumatic Brain Injury	2.4
q.	Other Health Impairment	1.2
r.	<u>Enrolled at a school that has received an "F" school grade pursuant to Section 1210.545 of this title in each of the last three (3) immediately preceding years</u>	<u>1.1</u>

Except as otherwise provided, multiply the number of pupils approved in the school year with the highest average daily membership in each category by the weight assigned to such category and add the totals together to determine the weighted pupil category calculation for a school district. For the 1996-97 school year, the number to be multiplied by the weight assigned to the gifted category in subparagraph g of this paragraph shall be the lesser of (1) the sum of the number of students who scored in the top three percent (3%)

1 on any national standardized test of intellectual ability plus the
2 number of students identified as gifted pursuant to subparagraphs a
3 through d of paragraph 1 of Section 1210.301 of this title or (2)
4 the sum of the number of students who scored in the top three
5 percent (3%) on any national standardized test of intellectual
6 ability plus eight percent (8%) of the total average daily
7 membership of the school district for the preceding school year.
8 For the 1997-98 school year and subsequent school years, the number
9 to be multiplied by the weight assigned to the gifted category in
10 subparagraph g of this paragraph shall be the lesser of (1) the sum
11 of the number of students who scored in the top three percent (3%)
12 on any national standardized test of intellectual ability plus the
13 number of students identified as gifted pursuant to subparagraphs a
14 through d of paragraph 1 of Section 1210.301 of this title, or (2)
15 the sum of the number of students who scored in the top three
16 percent (3%) on any national standardized test of intellectual
17 ability plus eight percent (8%) of the total average daily
18 membership of the school district for the first nine (9) weeks of
19 the school year.

20 3. The weighted district calculation shall be determined by
21 determining the calculations for each school district for both the
22 small school district formula and the district sparsity - isolation
23 formula, applying whichever is the greater of the calculations of
24

1 the two formulas and then applying the restrictions pursuant to
2 subparagraph c of this paragraph.

3 a. Small school district formula: 529 minus the average
4 daily membership divided by 529 times .2 times total
5 average daily membership.

6 The small school district formula calculation shall apply
7 only to school districts whose highest average daily
8 membership is less than 529 pupils. School districts which
9 are consolidated or annexed after July 1, 2003, pursuant to
10 the Oklahoma School Voluntary Consolidation and Annexation
11 Act shall have the weighted district size calculation for
12 the three (3) school years following the fiscal year in
13 which such consolidation occurred calculated to be the sum
14 of the individual consolidated districts computed as if the
15 consolidation had not taken place. Thereafter, any such
16 district which is consolidated pursuant to the Oklahoma
17 School Voluntary Consolidation and Annexation Act shall not
18 qualify for the weighted district calculation unless the
19 district can satisfy the specifications herein. Subject to
20 the provisions of subparagraph c of this paragraph, the
21 resulting number shall be counted as additional students
22 for the purpose of calculating State Aid.

23 b. District sparsity - isolation formula:
24

1 The district sparsity - isolation formula calculation shall
2 apply only to school districts:

3 (1) whose total area in square miles is greater than
4 the average number of square miles for all school
5 districts in this state; and

6 (2) whose areal density is less than one-fourth (1/4)
7 of the state average areal density. Areal
8 density shall be determined by dividing the
9 school district's average daily membership by the
10 school district's total area in square miles.

11 The district sparsity - isolation formula calculation shall
12 be calculated as follows:

13 The school district student cost factor multiplied by
14 the school district area factor. The resulting
15 product shall be multiplied by the school district's
16 average daily membership. Subject to the provisions
17 of subparagraph c of this paragraph, the resulting
18 number shall be counted as additional students for the
19 purpose of calculating State Aid.

20 The school district student cost factor shall be calculated
21 as follows:

22 The school district's average daily membership shall
23 be categorized into the following grade level groups
24

and applied to the appropriate formulas as computed
below:

Grade Level Group

Grades K-5 Divide 74 by the sum of the Grade
Level ADM plus 23,
add .85 to the quotient, then
multiply the sum by the Grade
Level ADM.

Grades 6-8 Divide 122 by the sum of the Grade
Level ADM plus 133,
add .85 to the quotient, then
multiply the sum by the Grade
Level ADM.

Grades 9-12 Divide 292 by the sum of the Grade
Level ADM plus 128,
add .78 to the quotient, then
multiply the sum by the Grade
Level ADM.

The sum of the grade level group's average daily
membership shall be divided by the school district's
average daily membership. The number one (1.0) shall
be subtracted from the resulting quotient.

The school district area cost factor shall be calculated as
follows:

1 Subtract the state average district area from the
2 district area, then divide the remainder by the state
3 average district area;

4 however, the district area cost factor shall not exceed one
5 (1.0).

6 The State Board of Education shall define geographical barriers
7 whose location in a school district would inhibit the district from
8 consolidation or annexation. The Board shall make available an
9 application process, review applications, and for districts the
10 Board deems necessary allow additional square miles to be used for
11 the purposes of calculations used for the weighted district sparsity
12 - isolation formula. Provided, that the additional square miles
13 allowed for geographical barriers shall not exceed thirty percent
14 (30%) of the district's actual size.

15 c. State Aid funds which a district is calculated to
16 receive as a result of the weighted district
17 calculation shall be restricted as follows:

18 If, after the weighted district calculation is
19 applied, the district's projected per pupil
20 revenue exceeds one hundred fifty percent (150%)
21 of the projected state average per pupil revenue,
22 then the district's State Aid shall be reduced by
23 an amount that will restrict the district's
24 projected per pupil revenue to one hundred fifty

1 percent (150%) of the projected state average per
2 pupil revenue. Provided, in applying the
3 restriction provided in this division, the
4 district's State Aid shall not be reduced by an
5 amount greater than by the amount of State Aid
6 which was generated by the weighted district
7 calculation.

8 The July calculation of the projected per pupil
9 revenue shall be determined by dividing the highest of
10 the district's preceding two (2) years average daily
11 membership (ADM) as weighted by the pupil grade level,
12 the pupil category, the district and the teacher
13 experience degree index calculations for projected
14 State Aid into the district's projected total revenues
15 including projected funds for the State Aid Formula
16 for the preceding year, net assessed valuation for the
17 preceding calendar year times thirty-nine (39) mills,
18 county revenues excluding the county four-mills
19 revenues for the second preceding year, other state
20 appropriations for the preceding year and the
21 collections for the preceding year of state
22 apportionment, motor vehicle revenue, gross production
23 tax and R.E.A. tax.

1 The December calculation of the projected per pupil
2 revenue shall be determined by dividing the highest of
3 the district's first nine (9) weeks of the current
4 school year or the two (2) preceding school years
5 average daily membership (ADM) as weighted by the
6 pupil grade level, the pupil category, the district
7 and the teacher experience degree index calculations
8 for projected State Aid into the district's projected
9 total revenues including funds for the December
10 calculation of the current year State Aid Formula, net
11 assessed valuation for the current calendar year times
12 thirty-nine (39) mills, county revenues excluding the
13 county four-mills revenue for the preceding year,
14 other state appropriations for the preceding year and
15 the collections for the preceding year of state
16 apportionment, motor vehicle revenue, gross production
17 tax and R.E.A. tax.

18 The district's projected total revenues for each
19 calculation shall exclude the following collections
20 for the second preceding year: federal revenue,
21 insurance loss payments, reimbursements, recovery of
22 overpayments and refunds, unused reserves, prior
23 expenditures recovered, prior year surpluses, and
24 other local miscellaneous revenues.

1 4. The weighted teacher experience and degree calculation shall
2 be determined in accordance with the teacher experience and degree
3 index. The State Department of Education shall determine an index
4 for each state teacher by using data supplied in the school
5 district's teacher personnel reports of the preceding year and
6 utilizing the index as follows:

7 TEACHER EXPERIENCE - DEGREE INDEX

8 EXPERIENCE	BACHELOR'S	MASTER'S	DOCTOR'S
9	DEGREE	DEGREE	DEGREE
10 0 - 2	.7	.9	1.1
11 3 - 5	.8	1.0	1.2
12 6 - 8	.9	1.1	1.3
13 9 - 11	1.0	1.2	1.4
14 12 - 15	1.1	1.3	1.5
15 Over 15	1.2	1.4	1.6

16 The school district teacher index for each school district shall
17 be determined by subtracting the weighted average state teacher from
18 the weighted average district teacher. Multiply the school district
19 teacher index if greater than zero by .7 and then multiply that
20 product by the sum of the district's weighted pupil grade level
21 calculation provided in paragraph 1 of this subsection and the
22 weighted pupil category calculation provided in subparagraph m of
23 paragraph 2 of this subsection to determine the weighted teacher
24 experience and degree calculation.

1 SECTION 4. AMENDATORY 70 O.S. 2011, Section 8-104, as
2 amended by Section 1, Chapter 85, O.S.L. 2013 (70 O.S. Supp. 2020,
3 Section 8-104), is amended to read as follows:

4 Section 8-104. A. In addition to the transfer process provided
5 in Section 8-103 of this title, students may be transferred on an
6 emergency basis. A written application for an emergency transfer
7 designating the district to which the transfer is desired shall be
8 made by the parent and filed with the superintendent of the
9 receiving school district. On an adequate showing of emergency the
10 superintendent of the receiving school district may make and order a
11 transfer, subject to approval by the State Board of Education. An
12 emergency shall include only:

- 13 1. The destruction or partial destruction of a school building;
- 14 2. The inability to offer the subject a pupil desires to
15 pursue, if the pupil becomes a legal resident of a school district
16 after February 1 of the school year immediately prior to the school
17 year for which the pupil is seeking the transfer;
- 18 3. A catastrophic medical problem of a student, which for
19 purposes of this section shall mean an acute or chronic serious
20 illness, disease, disorder or injury which has a permanently
21 detrimental effect on the body's system or renders the risk
22 unusually hazardous;
- 23 4. The total failure of transportation facilities;

1 5. The concurrence of both the sending and receiving school
2 districts;

3 6. The unavailability of remote or on-site Internet-based
4 instruction by course title in the district of residence for a
5 student identified as in need of drop-out recovery or alternative
6 education services, provided such student was enrolled at any time
7 in a public school in this state during the previous three (3)
8 school years;

9 7. The unavailability of a specialized deaf education program
10 for a student who is deaf or hearing impaired; ~~or~~

11 8. When a student has been the victim of harassment,
12 intimidation and bullying as defined in Section 24-100.3 of this
13 title, upon verification by the receiving school district that the
14 student has been the victim of harassment, intimidation or bullying
15 and that the sending school district was notified of the incident or
16 incidents prior to the filing of the application for transfer; or

17 9. Enrollment at a resident school that has received an "F"
18 school grade pursuant to Section 1210.545 of this title in each of
19 the last three (3) immediately preceding years prior to the year the
20 student submits the emergency transfer application.

21 B. An emergency transfer previously made may be canceled, with
22 the concurrence of the board of the receiving district and the
23 parent.

SECTION 5. This act shall become effective November 1, 2021.

58-1-7699 AMM 02/23/21