

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               1st Session of the 58th Legislature (2021)

4   ENGROSSED SENATE  
5   BILL NO. 22

By: Floyd of the Senate

and

West (Tammy) of the House

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9       An Act relating to boards of education; amending 70  
10      O.S. 2011, Section 5-117, as last amended by Section  
11      1, Chapter 149, O.S.L. 2018 (70 O.S. Supp. 2020,  
12      Section 5-117), which relates to powers and duties of  
13      boards of education; directing a lessee of certain  
14      property be given the right of first refusal to  
15      purchase the property; establishing terms and  
16      conditions for such sale; providing an effective  
17      date; and declaring an emergency.

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

19       SECTION 1.       AMENDATORY       70 O.S. 2011, Section 5-117, as  
20      last amended by Section 1, Chapter 149, O.S.L. 2018 (70 O.S. Supp.  
21      2020, Section 5-117), is amended to read as follows:

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

24       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;

1        2. Make rules, not inconsistent with the law or rules of the  
2 State Board of Education, governing the board and the school system  
3 of the district, including converting all or part of a traditional  
4 public school to a conversion school;

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

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

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

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

23       7. Purchase, construct or rent, and operate and maintain,  
24 classrooms, libraries, auditoriums, gymnasiums, stadiums, recreation

1 places and playgrounds, teacherages, school bus garages,  
2 laboratories, administration buildings, and other schoolhouses and  
3 school buildings, and acquire sites and equipment for the operation  
4 of public schools or conversion schools;

5       8.   a.    Insure the school district or its employees against  
6               any loss, damage or liability as defined by Sections  
7               702 through 708 of Title 36 of the Oklahoma Statutes,  
8               or other forms of insurance provided for in Title 36  
9               of the Oklahoma Statutes.

10       b.    Subject to the restrictions of liability in the  
11               Governmental Tort Claims Act:

12               (1)   insure the school district against all or any  
13               part of any liability it may incur for death,  
14               injury or disability of any person, or for damage  
15               to property, either real or personal,

16               (2)   insure any employee of the school district  
17               against all or any part of the employee's  
18               liability for injury or damage resulting from an  
19               act or omission in the scope of employment, or

20               (3)   insure against the expense of defending a claim  
21               against the school district or its employee,  
22               whether or not liability exists on such claim.

23       c.    As used in this subsection, "employee" means any  
24               person who has acted in behalf of a school district,

1           whether that person is acting on a permanent or  
2           temporary basis with or without being compensated or  
3           on a full-time or part-time basis. Employee also  
4           includes all elected or appointed officers, members of  
5           governing bodies of a school district, and persons  
6           appointed, and other persons designated by a school  
7           district to act in its behalf.

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

10          e. Any insurance authorized by law to be purchased,  
11          obtained or provided by a school district may be  
12          provided by:

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

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

20           (2) insurance in any insurer authorized to transact  
21           insurance in this state,

22           (3) insurance secured in accordance with any other  
23           method provided by law, or  
24

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

3 f. Two or more school districts or public agencies, by  
4 interlocal agreement made pursuant to the Interlocal  
5 Cooperation Act, may provide insurance for any purpose  
6 by any one or more of the methods specified in this  
7 section. The pooling of self-insured reserves, claims  
8 or losses among governments as authorized in this  
9 section shall not be construed to be transacting  
10 insurance nor otherwise subject to the provisions of  
11 the laws of this state regulating insurance or  
12 insurance companies, except as to the provisions of  
13 Section 607.1 of Title 36 of the Oklahoma Statutes.  
14 Two or more school districts may also be insured under  
15 a master policy or contract of insurance. Premium  
16 costs may be set individually for each school district  
17 or apportioned among participating school districts as  
18 provided by the master policy or contract;

19 9. Acquire property by condemnation proceedings in the same  
20 manner as land is condemned for railroad purposes. School district  
21 funds may be used to erect buildings on leased land on which other  
22 buildings have been erected prior to April 3, 1969, or on land which  
23 is leased from a governmental entity;  
24

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

7        11. a. Dispose of personal or real property no longer needed  
8 by the district by sale, exchange, lease, lease-  
9 purchase, sale and partial lease back, or otherwise.  
10 Real property shall be conveyed pursuant to a public  
11 sale, public bid, or private sale; provided however,  
12 unless otherwise prohibited by law, the board of  
13 education of a consolidated or annexed school district  
14 or any other school district may convey real property  
15 to a local political subdivision or to an educational  
16 institution within The Oklahoma State System of Higher  
17 Education or to a housing authority formed pursuant to  
18 the provisions of Section 1057 of Title 63 of the  
19 Oklahoma Statutes without consideration. Prior to the  
20 sale of any real property, the board of education  
21 shall have the real property appraised. The appraisal  
22 shall be confidential until the real property is sold.  
23 When the real property is sold, the board of education  
24 shall make the appraisal available for public

1 inspection. Prior to the conveyance of any real  
2 property by private sale, the board of education shall  
3 have offered the real property for sale by public sale  
4 or public bid. Any conveyance of real property by  
5 private sale to a nonprofit organization, association,  
6 or corporation to be used for public purposes, unless  
7 for exchange, shall contain a reversionary clause  
8 which returns the real property to the board of  
9 education upon the cessation of the use without profit  
10 or for public purposes by the purchaser or the assigns  
11 of the purchaser,

12 b. If a board of education makes the decision to dispose  
13 of real or personal property that is leased at the  
14 time the decision is made, whether such disposal is by  
15 public sale, public bid or private sale, the lessee  
16 shall have a right of first refusal to purchase the  
17 property on the following terms and conditions:

18 (1) if a board of education receives a bid or offer  
19 in a public sale, public bid or private sale for  
20 any real or personal property that it desires to  
21 accept, then it shall provide notice to the  
22 lessee of the property. The notice shall include  
23 the identity of the prospective purchaser of the  
24 property, the terms and conditions of the

1                   proposed sale and the purchase price to be paid  
2                   by the prospective purchaser, and  
3           (2)   the lessee shall have thirty (30) days after  
4                   receipt of the notice to inform the board of  
5                   education that it elects to purchase the property  
6                   on the same terms and conditions set forth in the  
7                   notice, in which event the board of education  
8                   shall convey the property to the lessee on all  
9                   the same terms and conditions set forth in the  
10                  notice; provided, however, that if any portion of  
11                  the consideration included in the purchase price  
12                  set forth in the notice is not in cash, then the  
13                  lessee shall be entitled to pay the fair market  
14                  value in cash of such noncash consideration;

15           12. Purchase necessary property, equipment, furniture, and  
16 supplies necessary to maintain and operate an adequate school  
17 system;

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

21           14. Contract with and fix the duties and compensation of  
22 physicians, dentists, optometrists, nurses, attorneys,  
23 superintendents, principals, teachers, bus drivers, janitors, and  
24 other necessary employees of the district;



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

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

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

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

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

1        20. Enter into contractual agreements with the board of  
2 trustees of a multicounty library system, as defined in Section 4-  
3 103 of Title 65 of the Oklahoma Statutes, a city-county library  
4 commission, as defined in Section 152 of Title 65 of the Oklahoma  
5 Statutes, or a rural single county library system, as defined in  
6 Section 1-104 of Title 65 of the Oklahoma Statutes, on such terms as  
7 may be mutually agreed, except no district board of education may  
8 enter into any agreement under which the library services for the  
9 school would be provided at any site other than the school site or  
10 which would result in library services that do not meet  
11 accreditation standards as required by law or rule;

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

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

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

23        24. Pay necessary meal and lodging expenses of school district  
24 students and sponsors involved in authorized school-sponsored

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

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

1 interest has been paid, the property shall belong to the lessee and  
2 the lessor shall deliver a deed or bill of sale to the property to  
3 the lessee. When any real or personal property has been leased or  
4 rented during any fiscal year pursuant to the provisions of any  
5 contract which permits continuance of the rental for the remainder  
6 of the fiscal year, the renting or leasing of the property shall be  
7 continued for the remainder of the fiscal year unless the board of  
8 education renting or leasing the same certifies by proper resolution  
9 entered in the minutes of the board of education that the  
10 continuance of the rental is unnecessary and contrary to the public  
11 interest. Any lease-purchase agreement entered into shall include  
12 the right of a school district to acquire buildings, equipment or  
13 other facilities or discrete components thereof or improve school  
14 sites through a lease-purchase agreement. A school district may use  
15 proceeds derived from the sale of bonds as authorized by Section 26  
16 of Article X of the Oklahoma Constitution to make lease-purchase  
17 payments, including interest, under a lease-purchase agreement. For  
18 purposes of this subsection, the term "acquired" as used in Section  
19 26 of Article X of the Oklahoma Constitution shall mean the  
20 possession, control, or power to dispose of personal or real  
21 property.

22 C. The boards of education of two or more school districts may  
23 enter into cooperative agreements and maintain joint programs  
24 including, but not limited to, courses of instruction for

1 handicapped children, courses of instruction in music and other  
2 subjects, practical instruction for trades and vocations, practical  
3 instruction in driver training courses, and health programs  
4 including visual care by persons legally licensed for such purpose,  
5 without favoritism as to either profession. The revenues necessary  
6 to operate a joint program approved in cooperative agreements,  
7 whether from federal, state or local sources, including the  
8 individual contributions of participating school districts, shall be  
9 deposited into a fund separate from all other appropriated funds.  
10 The beginning fund balance each year, combined with all actual  
11 revenues, including collected and estimated revenues, must be  
12 appropriated before being expended. Purchase orders shall be issued  
13 against available appropriations and, once goods or services have  
14 been received, either payable or nonpayable warrants shall be issued  
15 in payment of all purchase orders. The fund shall be reported as a  
16 separate appropriated fund in all the financial reports of the  
17 school district which is chosen by the other school districts to  
18 keep the accounting records of the joint program.

19 D. The boards of education of two or more school districts may  
20 enter into a mutual contract or separate contracts with a  
21 superintendent, administrator, or teacher or with a person to  
22 provide support services, to serve as superintendent, administrator,  
23 or teacher, as appropriately qualified, or to provide support  
24 services, for each contracting district upon such terms and

1 conditions as the parties may agree. Nothing in this ~~act~~ section  
2 shall be construed to authorize or require annexation or  
3 consolidation of any school districts or the closing of any school  
4 site except pursuant to law as set forth in Section 7-101 et seq. of  
5 this title.

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

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

16 G. The board of education of any school district with an  
17 average daily membership of thirty thousand (30,000) or more and all  
18 or part of which school district is located in a county having more  
19 than five hundred thousand (500,000) population according to the  
20 latest Federal Decennial Census may contract with a public or  
21 private nonsectarian entity for that entity to provide educational  
22 and administrative services for the school district. The  
23 educational services provided by a contracting entity may include  
24 but are not limited to the delivery of instructional service in core

1 and noncore academic subjects to the students enrolled in the school  
2 district at one or more school sites or parts of sites within the  
3 district pursuant to the terms of an educational services contract.  
4 All educational service providers and their employees and  
5 representatives and all educational and administrative services  
6 provided under an educational services contract shall be exempt from  
7 all statutes and rules relating to schools, boards of education and  
8 school districts to the same extent that a charter school is exempt  
9 under the Oklahoma Charter Schools Act. For all purposes, including  
10 but not limited to attendance, funding from all sources and  
11 accountability, all students who are provided services by a  
12 contracting entity pursuant to an educational services contract  
13 shall at all times be and remain students of the school district.

14 SECTION 2. This act shall become effective July 1, 2021.

15 SECTION 3. It being immediately necessary for the preservation  
16 of the public peace, health or safety, an emergency is hereby  
17 declared to exist, by reason whereof this act shall take effect and  
18 be in full force from and after its passage and approval.

19

20 COMMITTEE REPORT BY: COMMITTEE ON COMMON EDUCATION, dated 04/06/2021  
21 - DO PASS.

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