

1 **SENATE FLOOR VERSION**

2 March 30, 2015

3 ENGROSSED HOUSE
4 BILL NO. 1691

By: Denney of the House

5 and

6 Jolley of the Senate

7
8 An Act relating to schools; amending 70 O.S. 2011,
9 Section 5-117, as amended by Section 2, Chapter 306,
10 O.S.L. 2013 (70 O.S. Supp. 2014, Section 5-117),
11 which relates to the powers and duties of boards of
12 education of school districts; allowing certain
13 boards of education to contract with educational
14 services entities to provide educational and
15 administrative services; specifying certain types of
16 educational services; exempting educational service
17 providers, employees, representatives and services
18 provided under a contract from certain statutes and
19 rules; making students who are provided services
20 under a contract students of the school district for
21 all purposes; providing an effective date; and
22 declaring an emergency.

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

SECTION 1. AMENDATORY 70 O.S. 2011, Section 5-117, as
amended by Section 2, Chapter 306, O.S.L. 2013 (70 O.S. Supp. 2014,
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 1. Elect its own officers; provided that the chair of the board
2 authorized in Section 5-107B of this title shall be elected by the
3 electors of the school district;
- 4 2. Make rules, not inconsistent with the law or rules of the
5 State Board of Education, governing the board and the school system
6 of the district;
- 7 3. Maintain and operate a complete public school system of such
8 character as the board of education shall deem best suited to the
9 needs of the school district;
- 10 4. Designate the schools to be attended by the children of the
11 district;
- 12 5. Provide and operate, when deemed advisable, cafeterias or
13 other eating accommodations, thrift banks or other facilities for
14 the teaching and practice of thrift and economy, bookstores, print
15 shops, and vocational and other shops;
- 16 6. Provide informational material concerning school bond
17 elections and millage elections, including but not limited to all
18 pertinent financial information relative to the bond issue, a
19 statement of revenue sources necessary to retire proposed bonds, a
20 statement of current bonded indebtedness of the school district, and
21 a statement of proposed use of funds to be generated by the proposed
22 bond issue. The informational material shall not contain the words
23 "vote yes" or "vote no" or any similar words or statement any place
24 on such informational material;

1 7. Purchase, construct or rent, and operate and maintain,
2 classrooms, libraries, auditoriums, gymnasiums, stadiums, recreation
3 places and playgrounds, teacherages, school bus garages,
4 laboratories, administration buildings, and other schoolhouses and
5 school buildings, and acquire sites and equipment therefor;

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

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

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

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

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

1 c. As used in this subsection, "employee" means any
2 person who has acted in behalf of a school district,
3 whether that person is acting on a permanent or
4 temporary basis with or without being compensated or
5 on a full-time or part-time basis. Employee also
6 includes all elected or appointed officers, members of
7 governing bodies of a school district, and persons
8 appointed, and other persons designated by a school
9 district to act in its behalf.

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

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

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

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

22 (2) insurance in any insurer authorized to transact
23 insurance in this state,
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1 (3) insurance secured in accordance with any other
2 method provided by law, or

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

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

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

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

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

1 private sale to a nonprofit organization, association, or
2 corporation to be used for public purposes, unless for exchange,
3 shall contain a reversionary clause which returns the real property
4 to the board of education upon the cessation of the use without
5 profit or for public purposes by the purchaser or the assigns of the
6 purchaser;

7 12. Purchase necessary property, equipment, furniture, and
8 supplies necessary to maintain and operate an adequate school
9 system;

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

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

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

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

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

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

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

17 20. Enter into contractual agreements with the board of
18 trustees of a multicounty library system, as defined in Section 4-
19 103 of Title 65 of the Oklahoma Statutes, a city-county library
20 commission, as defined in Section 152 of Title 65 of the Oklahoma
21 Statutes, or a rural single county library system, as defined in
22 Section 1-104 of Title 65 of the Oklahoma Statutes, on such terms as
23 may be mutually agreed, except no district board of education may
24 enter into any agreement under which the library services for the

1 school would be provided at any site other than the school site or
2 which would result in library services that do not meet
3 accreditation standards as required by law or rule;

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

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

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

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

23 B. The board of education of any school district may rent real
24 and personal property, if such items are necessary for the operation

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

1 entered in the minutes of the board of education that the
2 continuance of the rental is unnecessary and contrary to the public
3 interest. Any lease-purchase agreement entered into shall include
4 the right of a school district to acquire buildings, equipment or
5 other facilities or discrete components thereof or improve school
6 sites through a lease-purchase agreement. A school district may use
7 proceeds derived from the sale of bonds as authorized by Section 26
8 of Article X of the Oklahoma Constitution to make lease-purchase
9 payments, including interest, under a lease-purchase agreement. For
10 purposes of this subsection, the term "acquired" as used in Section
11 26 of Article X of the Oklahoma Constitution shall mean the
12 possession, control, or power to dispose of personal or real
13 property.

14 C. The boards of education of two or more school districts may
15 enter into cooperative agreements and maintain joint programs
16 including, but not limited to, courses of instruction for
17 handicapped children, courses of instruction in music and other
18 subjects, practical instruction for trades and vocations, practical
19 instruction in driver training courses, and health programs
20 including visual care by persons legally licensed for such purpose,
21 without favoritism as to either profession. The revenues necessary
22 to operate a joint program approved in cooperative agreements,
23 whether from federal, state or local sources, including the
24 individual contributions of participating school districts, shall be

1 deposited into a fund separate from all other appropriated funds.
2 The beginning fund balance each year, combined with all actual
3 revenues, including collected and estimated revenues, must be
4 appropriated before being expended. Purchase orders shall be issued
5 against available appropriations and, once goods or services have
6 been received, either payable or nonpayable warrants shall be issued
7 in payment of all purchase orders. The fund shall be reported as a
8 separate appropriated fund in all the financial reports of the
9 school district which is chosen by the other school districts to
10 keep the accounting records of the joint program.

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

21 E. Any school district may operate or maintain a school or
22 schools on any military reservation which is within the boundaries
23 of the school district or which is adjacent to the school district,
24 and provide the instruction in the school or schools to children of

1 personnel on the military reservation and, in doing so, shall
2 conform to all federal laws and requirements.

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

7 G. The board of education of any school district with an
8 average daily membership of thirty thousand (30,000) or more and all
9 or part of which school district is located in a county having more
10 than five hundred thousand (500,000) population according to the
11 latest Federal Decennial Census may contract with a public or
12 private nonsectarian entity for that entity to provide educational
13 and administrative services for the school district. The
14 educational services provided by a contracting entity may include
15 but are not limited to the delivery of instructional service in core
16 and noncore academic subjects to the students enrolled in the school
17 district at one or more school sites or parts of sites within the
18 district pursuant to the terms of an educational services contract.
19 All educational service providers and their employees and
20 representatives and all educational and administrative services
21 provided under an educational services contract shall be exempt from
22 all statutes and rules relating to schools, boards of education and
23 school districts to the same extent that a charter school is exempt
24 under the Oklahoma Charter Schools Act. For all purposes, including

1 but not limited to attendance, funding from all sources and
2 accountability, all students who are provided services by a
3 contracting entity pursuant to an educational services contract
4 shall at all times be and remain students of the school district.

5 SECTION 2. This act shall become effective July 1, 2015.

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

10 COMMITTEE REPORT BY: COMMITTEE ON EDUCATION
11 March 30, 2015 - DO PASS
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