STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

HOUSE BILL 2677

By: Baker

AS INTRODUCED

An Act relating to schools; amending 70 O.S. 2021, Sections 18-109.5 and 18-201.1, which relate to State Aid; eliminating term; adding definition for English language learner; requiring certain annual assessment to confirm student meets definition; modifying weighted pupil category for calculating State Aid; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 70 O.S. 2021, Section 18-109.5, is amended to read as follows:

Section 18-109.5 A. As used in Section 18-201.1 of this title:

1. "Visual impairment" means an impairment in vision that, even with correction, adversely affects a child's educational performance. This includes both partial sight and blindness;

2. "Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell or
to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia. The term does not include learning problems that are primarily the result of visual, hearing or motor disabilities, of intellectual disability, of emotional disturbance or of environmental, cultural or economic disadvantage;

3. "Deafness" means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, that adversely affects a child's educational performance;

4. "Economically disadvantaged" means all children who qualify for free or reduced lunches;

5. "Intellectual disability" means significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the development period, that adversely affects a child's educational performance;

6. "Emotional disturbance" means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:

   a. an inability to learn which cannot be explained by intellectual, sensory or health factors,

   b. an inability to build or maintain satisfactory interpersonal relationships with peers and teachers,
c. inappropriate types of behavior or feelings under normal circumstances,

d. a general pervasive mood of unhappiness or depression, or

e. a tendency to develop physical symptoms or fears associated with personal or school problems.

The term includes children who are schizophrenic. The term does not include children who are socially maladjusted, unless it is determined that they are seriously emotionally disturbed;

7. "Gifted" means identified students as outlined in Section 1210.301 of this title;

8. "Hearing impairment" means an impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance but that is not included under the definition of "deafness";

9. "Multiple disabilities" means concomitant impairments, such as intellectual disability - blindness or intellectual disability - orthopedic impairment, the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. The term does not include deaf-blindness;

10. "Orthopedic impairment" means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by a congenital anomaly,
impairments caused by disease such as poliomyelitis and bone tuberculosis, and impairments from other causes such as cerebral palsy, amputations and fractures or burns that cause contractures;

11. "Other health impairment" means having limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment that adversely affects a child's educational performance and is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia and Tourette syndrome;

12. "Speech or language impairment" means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance; 

13. "Deaf-blindness" means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that they cannot be accommodated in special education programs solely for children with deafness or children with blindness; 

14. "Autism" means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three (3), that adversely affects a
child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. Autism does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance, as defined in this subsection;

15. "Traumatic brain injury" means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative or to brain injuries induced by birth trauma;

16. "Bilingual English language learner" means those students:
   a. who have limited English speaking abilities or who come from homes where English is not the dominant language as reported on the current year application for accreditation:
(1) were not born in the United States or whose native language is a language other than English,

(2) are Native American or Alaska Natives, or a native resident of the outlying areas, and who come from an environment where a language other than English has had a significant impact on the student's level of English language proficiency, or

(3) are migratory, whose native language is a language other than English, and who come from an environment where a language other than English is dominant, and

b. whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the student:

(1) the ability to meet the state's proficient level of achievement on state assessments,

(2) the ability to successfully achieve in classrooms where the language of instruction is English, or

(3) the opportunity to participate fully in society.

Any school district receiving funds for a student who is categorized as an English language learner shall reevaluate the student annually using assessments required by federal law to confirm the student
continues to meet the definition of English language learner as provided in this paragraph;

17. "Special Education Summer Program" means those summer school programs which school districts may provide for children who are severely or profoundly multiple-handicapped if their individualized education program states the need for a continuing educational experience to prevent loss of educational achievement or basic life skills. Any school district receiving funds for such special education summer programs shall provide services as provided in Section 13-101 of this title; and

18. "Optional Extended School Year Program" means the program defined in Section 1-109.1 of this title.

B. The State Board of Education is hereby authorized to modify and redefine by rule the definitions set out in this section whenever such modification is required to receive federal assistance therefor.

SECTION 2. AMENDATORY 70 O.S. 2021, Section 18-201.1, is amended to read as follows:

Section 18-201.1 A. Beginning with the 2020-21 school year, and each school year thereafter, the weighted membership of a school district for calculation of Foundation Aid purposes pursuant to paragraph 1 of subsection D of Section 18-200.1 of this title shall be the sum of the weighted pupil grade level calculation, the weighted pupil category calculation, the weighted district
calculation and the weighted teacher experience and degree calculation. The weighted membership of a school district for calculation of Salary Incentive Aid purposes pursuant to paragraph 3 of subsection D of Section 18-200.1 of this title shall be the sum of the weighted pupil grade level calculation, the weighted pupil category calculation, the weighted district calculation and the weighted teacher experience and degree calculation.

B. Beginning with the 2022-2023 school year, the weighted calculations provided for in subsection A of this section shall be based on the higher weighted average daily membership of the first nine (9) weeks of the current school year or the preceding school year of a school district, unless otherwise specified. The higher of the two (2) weighted average daily memberships shall be used consistently in all of the calculations; however, the weighted calculation for a statewide virtual charter school experiencing a significant decline in membership shall be based on the first nine (9) weeks of the current school year for the statewide virtual charter school. For purposes of this subsection, "significant decline in membership" means equal to or greater than a fifteen percent (15%) decrease in average daily membership from the preceding school year to the average daily membership of the first nine (9) weeks of the current school year. The average daily membership data used for all calculations in paragraphs 1, 2, 3 and 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:

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

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

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

<table>
<thead>
<tr>
<th>CATEGORY</th>
<th>WEIGHT</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Visual Impairment</td>
<td>3.8</td>
</tr>
<tr>
<td>b. Specific Learning Disability</td>
<td>.4</td>
</tr>
<tr>
<td>c. Deafness or Hearing Impairment</td>
<td>2.9</td>
</tr>
<tr>
<td>d. Deaf-Blindness</td>
<td>3.8</td>
</tr>
<tr>
<td>e. Intellectual Disability</td>
<td>1.3</td>
</tr>
<tr>
<td>f. Emotional Disturbance</td>
<td>2.5</td>
</tr>
<tr>
<td>g. Gifted</td>
<td>.34</td>
</tr>
<tr>
<td>h. Multiple Disabilities</td>
<td>2.4</td>
</tr>
<tr>
<td>i. Orthopedic Impairment</td>
<td>1.2</td>
</tr>
<tr>
<td>j. Speech or Language Impairment</td>
<td>.05</td>
</tr>
</tbody>
</table>
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 1997-98 school year and subsequent school years, 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%) on any national standardized test of intellectual ability plus the number of students identified as gifted pursuant to subparagraphs a through d of paragraph 1 of Section 1210.301 of this title, or (2) the sum of the number of students who scored in the top three percent (3%) on any national standardized test of intellectual ability plus eight percent (8%) of
the total average daily membership of the school district for the
first nine (9) weeks of the school year.

3. The weighted district calculation shall be determined by
determining the calculations for each school district for both the
small school district formula and the district sparsity - isolation
formula, applying whichever is the greater of the calculations of
the two formulas and then applying the restrictions pursuant to
subparagraph c of this paragraph.

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

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

b. District sparsity - isolation formula:
The district sparsity - isolation formula calculation shall
apply only to school districts:

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

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

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

The school district student cost factor multiplied by
the school district area factor. The resulting
product shall be multiplied by the school district's
average daily membership. Subject to the provisions
of subparagraph c of this paragraph, the resulting
number shall be counted as additional students for the
purpose of calculating State Aid.
The school district student cost factor shall be calculated as follows:

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

Subtract the state average district area from the district area, then divide the remainder by the state average district area; however, the district area cost factor shall not exceed one (1.0).

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

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

If, after the weighted district calculation is applied, the district's projected per pupil revenue exceeds one hundred fifty percent (150%)
of the projected state average per pupil revenue, then the district's State Aid shall be reduced by an amount that will restrict the district's projected per pupil revenue to one hundred fifty percent (150%) of the projected state average per pupil revenue. Provided, in applying the restriction provided in this division, the district's State Aid shall not be reduced by an amount greater than by the amount of State Aid which was generated by the weighted district calculation.

The July calculation of the projected per pupil revenue shall be determined by dividing the district's preceding year's average daily membership (ADM) as weighted by the pupil grade level, the pupil category, the district and the teacher experience degree index calculations for projected State Aid into the district's projected total revenues including projected funds for the State Aid Formula for the preceding year, net assessed valuation for the preceding calendar year times thirty-nine (39) mills, county revenues excluding the county four-mills revenues for the second preceding year, other state appropriations for the preceding year and the
collections for the preceding year of state
apportionment, motor vehicle revenue, gross production
tax and R.E.A. tax.
The December calculation of the projected per pupil
revenue shall be determined by dividing the higher of
the district's first nine (9) weeks of the current
school year or the preceding school year's average
daily membership (ADM) as weighted by the pupil grade
level, the pupil category, the district and the
teacher experience degree index calculations for
projected State Aid into the district's projected
total revenues including funds for the December
calculation of the current year State Aid Formula, net
assessed valuation for the current calendar year times
thirty-nine (39) mills, county revenues excluding the
county four-mills revenue for the preceding year,
other state appropriations for the preceding year and
the collections for the preceding year of state
apportionment, motor vehicle revenue, gross production
tax and R.E.A. tax.
The district's projected total revenues for each
calculation shall exclude the following collections
for the second preceding year: federal revenue,
insurance loss payments, reimbursements, recovery of
overpayments and refunds, unused reserves, prior expenditures recovered, prior year surpluses, and other local miscellaneous revenues.

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

<table>
<thead>
<tr>
<th>EXPERIENCE</th>
<th>BACHELOR'S DEGREE</th>
<th>MASTER'S DEGREE</th>
<th>DOCTOR'S DEGREE</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 2</td>
<td>0.7</td>
<td>0.9</td>
<td>1.1</td>
</tr>
<tr>
<td>3 - 5</td>
<td>0.8</td>
<td>1.0</td>
<td>1.2</td>
</tr>
<tr>
<td>6 - 8</td>
<td>0.9</td>
<td>1.1</td>
<td>1.3</td>
</tr>
<tr>
<td>9 - 11</td>
<td>1.0</td>
<td>1.2</td>
<td>1.4</td>
</tr>
<tr>
<td>12 - 15</td>
<td>1.1</td>
<td>1.3</td>
<td>1.5</td>
</tr>
<tr>
<td>Over 15</td>
<td>1.2</td>
<td>1.4</td>
<td>1.6</td>
</tr>
</tbody>
</table>

The school district teacher index for each school district shall be determined by subtracting the weighted average state teacher from the weighted average district teacher. Multiply the school district teacher index if greater than zero by 0.7 and then multiply that product by the sum of the district's weighted pupil grade level calculation provided in paragraph 1 of this subsection and the
weighted pupil category calculation provided in subparagraph m of paragraph 2 of this subsection to determine the weighted teacher experience and degree calculation.

SECTION 3. This act shall become effective July 1, 2023.

SECTION 4. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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