

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 HOUSE BILL 2819

By: Denney

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5
6 AS INTRODUCED

7 An Act relating to schools; authorizing school
8 districts to sell or exchange certain property under
9 certain conditions; providing for depositing funds
10 from the sale or exchange of property; prohibiting
11 school districts from making certain covenants;
12 excluding certain school buildings; requiring school
13 districts to make certain school buildings available
14 for lease or purchase to a charter school for certain
15 purposes; requiring school districts to inform the
16 State Department of Education of any closed, unused
17 or unoccupied school building by certain date;
18 directing the Department to maintain a list of
19 closed, unused or unoccupied school buildings;
20 requiring the Department to update the list;
21 providing for certain designations of school
22 buildings on the list for certain period; allowing a
23 board of education to change a designation; providing
24 for the redesignation of certain school buildings;
requiring a charter school to notify the Department
upon election to use a school building on the list;
providing for certain notification to the school
district; requiring the school district to lease or
sell the school building to the charter school for
certain amount; requiring the charter school to use
the school building within certain time period;
directing the Department to place a school building
back on the list under certain circumstances;
providing for the transfer of certain amount of funds
if a charter school sells or transfers a school
building; specifying responsibilities for certain
expenses and debts; prohibiting the sale of a school
building with certain designation for certain period;
allowing a school district to request a waiver from
the requirement to sell or lease a school building;
requiring the Department to notify charter schools

1 and a certain organization of a waiver request;
2 authorizing charter schools and a certain
3 organization to file an objection to the waiver
4 request; stating contents of an objection;
5 establishing process for considering and granting a
6 waiver request; defining certain term; providing for
7 codification; providing an effective date; and
8 declaring an emergency.

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

9 SECTION 1. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 3-144.1 of Title 70, unless
11 there is created a duplication in numbering, reads as follows:

12 A. Except as otherwise provided in this section, the board of
13 education of a school district may sell or exchange any real or
14 personal property that the board determines:

- 15 1. Is no longer needed for school purposes; or
- 16 2. Should, in the interests of the school district, be
17 exchanged for other property.

18 B. Money derived from the sale or exchange of property under
19 this section shall be placed in any school fund:

- 20 1. Established under applicable law; and
- 21 2. That the board of education of the school district considers
22 appropriate.

1 C. A board of education of a school district shall not make a
2 covenant that prohibits the sale of real property to another
3 educational institution.

4 D. This section shall not apply to a school building that on
5 July 1, 2016, is leased or loaned by the school district that owns
6 the school building to another entity that is not related to or
7 created by the school district. Except as otherwise provided for in
8 this section, a board of education of a school district shall make
9 available for lease or purchase to any charter school, in order for
10 the charter school to conduct classroom instruction, any school
11 building owned by the school district or any other entity that is
12 related to or created by the school district, that:

- 13 1. a. Is not used in whole or in part for classroom
14 instruction at the time the charter school seeks to
15 lease the building, or
- 16 b. Appears on the list compiled by the State Department
17 of Education under subsection E of this section; and
- 18 2. Was previously used for classroom instruction.

19 E. Each board of education of a school district shall provide a
20 list to the State Department of Education of all school buildings
21 that were previously used for classroom instruction that are closed,
22 unused or unoccupied no later than August 1, 2017, and each August 1
23 thereafter. The Department shall maintain a list of closed, unused
24 or unoccupied school buildings and make the list available on the

1 Internet website for the Department. Each school district shall
2 notify the Department of any school building that is being closed,
3 unused or unoccupied within a certain time period set by the
4 Department. The Department shall update the list not later than
5 fifteen (15) days after being notified that a building will be
6 closed, unused or unoccupied.

7 F. A school building that appears for the first time on the
8 list maintained by the Department pursuant to subsection E of this
9 section shall be designated as "unavailable" for two (2) years from
10 the date the school building first appears on the list if the board
11 of education of the school district that owns the school building
12 indicates to the Department, on a form prescribed by the Department,
13 that the school building may be reclaimed during that period for
14 classroom instruction. If a board does not indicate that a school
15 building may be reclaimed, the board shall designate the school
16 building as "available" on the list. A board of education may
17 change the designation of a building from available to unavailable
18 at any time. If a school building that is designated as unavailable
19 on the list remains unused for classroom instruction one (1) year
20 after being reclaimed under this subsection, the board shall
21 designate the school building as available on the list. A board may
22 reclaim a school building only one time under this subsection.

23 G. 1. If a charter school elects to use a school building on
24 the list created pursuant to subsection E of this section, the

1 charter school shall send a letter of intent to the Department.
2 Within thirty (30) days after receiving a letter from a charter
3 school, the Department shall notify the board of education which
4 owns the school building of the intent of the charter school.
5 Within thirty (30) days after receiving notification from the
6 Department, the board of education shall either:

- 7 a. lease the school building to the charter school for
8 One Dollar (\$1.00) per year for as long as the charter
9 school uses the school building for classroom
10 instruction or for a different term at the discretion
11 of the charter school, or
- 12 b. sell the school building to the charter school for One
13 Dollar (\$1.00).

14 2. The charter school shall begin using the school building for
15 classroom instruction not later than two (2) years after acquiring
16 the school building. If the school building is not used for
17 classroom instruction within two (2) years after the charter school
18 acquires the school building, it shall be placed back on the list
19 maintained by the Department pursuant to subsection E of this
20 section.

21 3. If during the term of the lease the charter school closes or
22 ceases using the school building for classroom instruction, the
23 school building shall be placed back on the list maintained by the
24 Department pursuant to subsection E of this section.

1 4. If a school building is sold to a charter school as provided
2 for under this subsection and the charter school or any entity
3 related to the charter school subsequently sells or transfers the
4 school building to a third party, the charter school or related
5 entity shall transfer an amount equal to the gain in the property
6 minus the adjusted basis, including any costs of improvements made
7 to the school building, to the school district that initially sold
8 the school building to the charter school. Gain and adjusted basis
9 shall be determined in the manner prescribed by the Internal Revenue
10 Code and the applicable Internal Revenue Service regulations and
11 guidelines.

12 H. During the term of a lease as provided for in subsection G
13 of this section, the charter school shall be responsible for the
14 direct expenses related to the leased school building, including
15 utilities, insurance, maintenance, repairs and remodeling. The
16 school district shall be responsible for any debt incurred for or
17 liens that attached to the school building before the charter school
18 leased the school building.

19 I. Notwithstanding anything to the contrary in this section,
20 and except for a school building for which a waiver has been granted
21 as provided in subsection M of this section, when a school building
22 is designated as available on the list as provided for in subsection
23 F of this section the school building shall remain designated as
24 available and may not be sold or otherwise disposed of for at least

1 two (2) years. After the two-year period has elapsed, the school
2 district may sell or otherwise dispose of the school building.

3 J. A board of education of a school district may request a
4 waiver from the Department from the requirements of subsection D of
5 this section. In order for a board of education to receive a waiver
6 under subsection M of this section, the board shall apply to the
7 Department, on a form prescribed by the Department, for the waiver.
8 The application shall include a statement that the board believes
9 that a charter school would not be interested in leasing or
10 purchasing the closed, unused or unoccupied school building.

11 K. Within five (5) days of receiving a waiver request under
12 subsection J of this section, the Department shall notify each
13 charter school sponsor and statewide organization representing
14 charter schools in Oklahoma by certified mail of the waiver request.
15 The notice shall include a copy of the waiver request filed by the
16 board of education.

17 L. Not later than thirty (30) days after a charter school
18 sponsor or statewide organization representing charter schools in
19 Oklahoma receives a notice as described in subsection K of this
20 section, the charter school sponsor or a statewide organization
21 representing charter schools may submit a qualified objection to the
22 request for a waiver filed by the board of education. The qualified
23 objection shall be submitted to the Department in writing. In order
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1 for an objection to be considered a qualified objection by the
2 Department, it shall include:

3 1. The name of the charter school that is interested in leasing
4 or purchasing the vacant or unused school building; and

5 2. A time frame, which shall not exceed one (1) year from the
6 date of the objection, in which the charter school intends to begin
7 providing classroom instruction in the closed, unused or unoccupied
8 school building.

9 M. If the Department receives a qualified objection as provided
10 for in subsection L of this section, the vacant or unused school
11 building shall remain on the list maintained by the Department
12 pursuant to subsection E of this section with the same designation
13 that was on the building prior to the filing of the waiver request.
14 If the Department does not receive a qualified objection, the
15 Department shall grant the request of the board of education for a
16 waiver. A board that receives a waiver under this subsection may
17 sell or otherwise dispose of the closed, unused or unoccupied school
18 building.

19 N. For purposes of this section, "charter school" means a
20 charter school as defined in Section 3-132 of Title 70 of the
21 Oklahoma Statutes.

22 SECTION 2. This act shall become effective July 1, 2016.

23 SECTION 3. It being immediately necessary for the preservation
24 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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