



AUG - 1 2022

RICK WARREN
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IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

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INDEP. SCH. DIST. No. 71, *et al.*,

Plaintiffs,

v.

Case No: CJ-2020-2392

OKLA. STATE DEPT OF EDUC. &
OKLA. STATE BOARD OF EDUC.

Defendants.

DEFENDANTS' COUNTER-MOTION FOR SUMMARY JUDGMENT AND
RESPONSE TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Submitted by

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August 1, 2022

Defendants, Oklahoma State Department of Education (“OSDE”) and Oklahoma State Board of Education (“OSBE”), pursuant to OKLA. STAT. tit. 12, § 2056, move this Court for an order denying Plaintiffs’ Motion for Summary Judgment and granting Defendants summary judgment. No material facts are in dispute; Defendants are entitled to judgment as a matter of law.

INTRODUCTION

Plaintiffs bring this collateral attack on the final judgment of another court: specifically *Independent School Dist. No. 2, Tulsa County Oklahoma, v. Oklahoma Tax Commissioners*, Oklahoma County Case No. CV-2016-1249 (“OTC Lawsuit”). In that suit, these same Plaintiffs sued the Oklahoma Tax Commission (“OTC”), seeking recalculation and reapportionment of Motor Vehicle Collections (“MVC”) because of underpayments in MVC made by the OTC in Fiscal Years 2015-2016 (“FY 2015”) and 2016-2017 (“FY 2016”). The district court ultimately granted Plaintiffs that relief, ordering the OTC to recalculate and reapportion MVC to correct the error. The district court ordered this reapportionment of MVC through 13 monthly adjustment payments from the OTC (“MVC Adjustment Payments”), which were completed in Fiscal Years 2018-2019 (“FY 2018”) and 2019-2020 (“FY 2019”).

Despite obtaining the very relief they sought in the OTC Lawsuit—a court-ordered correction of the OTC’s underpayment of MVC—Plaintiffs now complain to this Court that the OTC (not Defendants) should not have treated the MVC Adjustment Payments as MVC revenue. This, despite a final judgment and a breadth of procedural history in the OTC Lawsuit making undeniable that the Adjustment Payments are in fact MVC. Plaintiffs disguise this collateral attack as a complaint against Defendants because OSDE subtracts “motor vehicle collections”—as calculated and apportioned by the OTC under the law for distribution of MVC found in Title 47—to calculate Foundation Aid. *Compare* OKLA. STAT. tit. 70, § 18-200.1 *with* OKLA. STAT. tit. 47, § 1104.

But as Plaintiffs are now forced to concede: “each year the OTC shorted the Plaintiff

Districts their MVC payments, their Foundation Aid was greater in the next year by the amounts they were shorted.” Pls.’ Mot. for Summ. J. (“Pls.’ MSJ”) at p. 15. Quite the opposite of Plaintiffs’ allegation of loss in some underpayment of Foundation Aid—Plaintiffs prove they *benefited* from *more* Foundation Aid in FY 2016 and 2017 than they were otherwise entitled. Thus, when the OTC made its court-ordered MVC Adjustment Payments to Plaintiffs, and treated those as MVC pursuant to the final judgment in the OTC Lawsuit, the Foundation Aid self-corrected in FY 2019 and 2020.

Plaintiffs’ strained and inconsistent argument cannot succeed as a matter of law. It contradicts the clear instructions of a final judgment, which cannot be collaterally attacked in this Court. It would further result in a windfall to Plaintiffs in the amount of the MVC Adjustment Payments, which was paid to them in Foundation Aid in FY 2016 and 2017. This Court should deny Plaintiffs’ Motion for Summary Judgment and instead grant Defendants summary judgment.

**RESPONSE TO PLAINTIFFS’ STATEMENT OF MATERIAL
UNDISPUTED FACTS**

1. Paragraph 1 sets forth an argumentative conclusion not rooted in fact. This Court should therefore disregard paragraph 1 in its entirety. To the extent further response is required, Defendants dispute that an “actual controversy exists between the parties”, as the issues raised in this suit were resolved by a final judgment in a court of competent jurisdiction, and Plaintiffs fail to prove any actual loss or justiciable controversy. *See infra* Sections II and III.

2. Paragraph 2 provides unnecessary commentary on evidence that speaks for itself; therefore, this Court should disregard the commentary contained in paragraph 2. Furthermore, neither paragraph 2 nor the exhibits referenced contain any factual allegations that are material to the underlying dispute. *See Hadnot v. Shaw*, 1992 OK 21, ¶ 18, 826 P.2d 978, 985 (“A fact is ‘material’ if proof of that fact would have the effect of establishing or refuting one of the essential elements of a cause of action or defense asserted by the parties.”). This Court should therefore disregard

paragraph 2. To the extent further response is required, Defendants do not dispute the factual matter contained in the Affidavit and attachment labeled Exhibits 5 and 6A.

3. Paragraph 3 sets forth an argumentative conclusion not rooted in fact. This Court should therefore disregard paragraph 3 in its entirety. To the extent further response is required, Defendants dispute that the OTC's treatment of the court-ordered MVC Adjustment Payments is a mere "conten[tion]" by Defendants. A final judgment in a court of competent jurisdiction, confirmed by Plaintiffs' own admissions in the OTC lawsuit, ordered the OTC treat the Adjustment Payments as MVC revenue. *See* Defs.' Facts No. 18-26.

4. Defendants generally do not dispute the facts set forth in paragraphs 4-8.

5. Defendants generally do not dispute the facts set forth in paragraphs 9-11, but dispute any insinuation by Plaintiffs that: (1) OSDE had any involvement in the calculation of MVC, as MVC is calculated and apportioned by the non-party OTC, (2) that the court-ordered Adjustment Payments are not MVC and should not have been included by OTC in the MVC calculation, and (3) Defendants did not properly calculate Foundation Aid. Defendants further move to strike Plaintiffs' Exhibits 10 and 13 (13 which is not cited in support of any alleged material fact) because "Matthew Hendricks" has no personal knowledge of the matters asserted, OKLA. STAT. tit. 12, § 2602, and no amount of "scientific, technical or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue . . ." OKLA. STAT. tit. 12, § 2702; *see also* Defs.' Facts No. 4-7, 23-25, 34.

6. Defendants dispute the argumentative and unsupported conclusory statement in paragraph 12. Plaintiffs did not receive *less* Foundation Aid than owed in FY 2019 and 2020. Plaintiffs instead received *more* Foundation Aid in FY 2016 and 2017 than they would have otherwise received due to an error by the OTC in the MVC calculation. *See* Pls.' MSJ at p. 15 ("It is true that each year the OTC shorted the Plaintiff Districts their MVC payments, their Foundation Aid was

greater in the next year by the amounts they were shorted.”). Accordingly, the court-ordered MVC Adjustment Payments made by the OTC in FY 2018 and 2019 *corrected* the MVC error, and likewise self-corrected the Foundation Aid overpayment in FY 2016 and 2017.

7. Defendants admit the Foundation Aid is reduced (or increased) dollar for dollar based on the OTC’s calculation and apportionment of MVC. Defendants otherwise dispute the argumentative and unsupported conclusory statement in paragraph 13. Defendants did not “inclu[de]” the OTC’s court-ordered MVC Adjustment Payments, as Defendants do not calculate or apportion MVC revenue. *See* Defs.’ Facts No. 8, 36. Rather, the non-party OTC properly, and consistently with a final judgment, calculated MVC including the court-ordered MVC Adjustment Payments to correct the MVC underpayment in FY 2015-2016 (which resulted in a dollar for dollar increase in State Aid in FY 2016-2017).

DEFENDANTS’ STATEMENT OF UNDISPUTED FACTS

The following material facts are not in dispute and present no genuine issue for the Court:

1. The statute governing the calculation of Foundation Aid directs the OSDE to subtract “Foundation Program Income”, representing income received by the school district (*i.e.*, Chargeables), from the cost of the “Foundation Program”. *See* OKLA. STAT. tit. 70, § 18-200.1.
2. “Motor Vehicle Collections” is one of the income sources comprising “Foundation Program Income”. *Id.*
3. The only aspect of the Foundation Aid Formula Plaintiffs dispute in this lawsuit is the treatment of MVC. *See* First Am. Pet., Pls.’ Ex. 3, at ¶¶ 20, 26. Plaintiffs do not dispute the calculation of any other Chargeables, nor the cost of the Foundation Program.
4. “Foundation Program Income” is subtracted dollar for dollar from the cost of the Foundation Program. *See* Pls.’ MSJ at p. 11; Pls.’ Resp. to MTD at p. 12 (“Foundation Aid must be

calculated by subtracting the Foundation Program Income (the total of the chargeables) from the total Foundation Program amount.”).

5. Consequently, Foundation Aid is reduced dollar for dollar by MVC. *Id.* (“[T]he Foundation Aid is reduced dollar for dollar by the amount [of] the MVC component”); *see also* Pls.’ MSJ at pp. 3-4, 8, 11.

6. When the MVC component is “wrongfully inflated[,]” “the Foundation Aid is reduced dollar for dollar by the amount the MVC component was improperly inflated.” Pls.’ MSJ at p. 11; Pls.’ Resp. to MTD at p. 12.

7. When the MVC component is “wrongfully” *deflated*, “the Foundation Aid is” likewise *increased* “dollar for dollar by the amount the MVC component was improperly” deflated. *See id.*; *see also* McWaters Depo., Pls.’ Ex. 12, at p. 47 (“If the amount that was turned in for – that was used for motor vehicle is reduced, then there is more state aid provided through the formula.”).

8. Defendants have no role in the MVC calculation or apportionment. Instead, “Motor Vehicle Collections are calculated and apportioned to the school districts by the OTC.” Pls.’ Ex. 3 at ¶ 8(e); OKLA. STAT. tit. 47, § 1104(B); *see also* OTC Lawsuit, Pet. Filed Jun. 15, 2016, attached as Defs.’ Ex. A, at p. 2 (“By law the OTC apportions certain motor vehicle collections to school districts”).

9. “OSDE merely notes the amount of that apportionment and utilizes that amount in its calculation of Foundation Aid.” Pls.’ Ex. 3 at ¶ 8(e); Pls.’ Ex. 12 at p. 50 (“We get - we receive a report that gives us the dollar amounts that we use from the tax commission. . . . It’s given to us as what was distributed by the tax commission each month.”).

10. The OSBE has no role in the calculation or apportionment of MVC, nor does it have any role in the OSDE’s calculation of Foundation Aid. *See, e.g.*, OKLA. STAT. tit. 70, §§ 18-117, 18-200.1.

11. MVC consists of the “amounts actually collected from such sources during the preceding fiscal year[.]” which is calculated by the OTC as “provided for by law for the distribution of” said revenue. *See* OKLA. STAT. tit. 70, § 18-200.1.

12. These “amounts actually collected” in Title 70, Section 18-200.1 refer to the MVC amounts collected by the school district (as calculated and apportioned by the OTC), not the MVC amounts actually collected by the OTC. *See id.*

13. In 2016, Plaintiffs filed a separate lawsuit against the OTC alleging the OTC improperly calculated the MVC for FY 2015 and 2016. *See* Defs.’ Ex. A.

14. In the OTC Lawsuit, Plaintiffs made the same allegations they now make before this court: that the OTC erroneously calculated MVC in FY 2015 and 2016, which resulted in an underpayment of MVC otherwise owed to them. *Compare* Pls.’ Ex. 3 at ¶ 11 (“[T]he OTC had apportioned the wrong amount of Motor Vehicle Collections” to Plaintiffs “between July 1, 2015, and August 25, 2017.”) to Defs.’ Ex. A at p. 3 (“As a result, Plaintiff school districts have not been apportioned motor vehicle collections as required by law[which] has deprived Plaintiff districts of funds to which they are entitled”); *see also* OTC Lawsuit, Pls.’ Mot. for Summ. J., filed Aug. 25, 2016, attached as Defs.’ Ex. B, at p. 6 (complaining “that the OTC has been improperly applying the statute regarding the apportionment of motor vehicle revenues to Plaintiff school districts, resulting in the underpayment of [MVC] revenues to Plaintiffs”).

15. In the OTC Lawsuit, Plaintiffs raised the exact complaint they once again raise before this Court: the effect of the OTC’s MVC error on Foundation Aid. *Compare* Pls.’ Ex. 3 at ¶¶ 18, 20, 24 to Defs.’ Ex. B at p. 10 (noting the OTC’s MVC error affected the Foundation Aid Formula and describing the OTC Lawsuit as “not merely a dispute between the OTC and the Plaintiff districts,” but a dispute implicating “the educational experience and prospects of children”); *id.* at pp. 11-12; Defs.’ Ex. A at p. 5.

16. In the OTC Lawsuit, Plaintiffs sought an order from that court requiring the OTC to “apportion motor vehicle collections” consistent with OKLA. STAT. tit. 47, § 1104(B)(2), and “recalculate[]” “the amount that such district would have received if the OTC had correctly applied 47 O.S. § 1104(B)(2)(a)” in the months where the OTC erred. *Id.* at 6.

17. In the OTC Lawsuit, Plaintiffs demanded the court order the OTC to “apportion motor vehicle revenues in the manner proposed by the Plaintiffs[,]” Defs.’ Ex. B at p. 10, and to reapportion “motor vehicle collections” revenue “until Plaintiff districts have recovered the cumulative total of monthly apportionments for which they are otherwise eligible . . .” *Id.* at 7.

18. The district court in the OTC Lawsuit did just that. It entered a final judgment ordering the OTC to “recalculate the amount of motor vehicle collections Plaintiffs would have received for July, 2015, apportioned in August, 2015, and all subsequent months had motor vehicle collections been apportioned in the manner set forth herein.” OTC Lawsuit, Journal Entry of Declaratory Judgment and Injunction, filed Dec. 9, 2016, attached as Defs.’ Ex. C, at p. 2.

19. The district court in the OTC Lawsuit then ordered the OTC to “apportion to each school district the . . . recalculated apportionment” for all months where the “motor vehicle collections” were erroneously calculated. *Id.* at 3.

20. The district court in the OTC Lawsuit clarified that the “OTC shall treat the revised amounts so arrived at constructively as the ‘taxes and fees provided for in [Title 47] in the corresponding month of the preceding year’ within the meaning of 47 O.S. § 1104(B)(2)(a) for future apportionments.” *Id.* at 4.

21. The Court of Civil Appeals subsequently confirmed that “[t]he Tax Commission shall recalculate the amount of motor vehicle collections that all eligible school districts should have received for fiscal year 2015 and base the future apportionment of funds on that amount . . .” 2018 OK CIV APP 49, ¶ 35, 419 P.3d 1281.

22. In a subsequent final order in the OTC Lawsuit, the district court ordered the “reapportionment of the specific dollar amounts of funds,” pursuant to the OTC’s recalculation of what “should have been apportioned to the school Districts pursuant to the correct” interpretation of Okla. Stat. tit. 47, § 1104. Pls.’ Ex. 9 at Ex. 1 pp. 2-3; *see also* Pls.’ Ex. 9 at p. 2 (“In its order of November 13, 2018, . . . this Court . . . directed to the [OTC] Defendants to . . . apportion these sums to other underpaid districts to correct the erroneous [MVC] apportionments[.]”).

23. The court concluded “[t]here is no genuine issue of material fact about the correctness of this recalculation,” which was as follows:

- a. Ponca City \$460,047.54,
- b. Lone Wolf \$32,601.71,
- c. Muskogee \$462,505.17, and
- d. Quapaw \$61,487.06.

Pls.’ Ex. 9 at Ex. 1, p. 5; *see also* Defs.’ Demonstrative Exhibits, attached as Defs.’ Ex. D.

24. In addition to the court’s final order, this recalculation was specifically approved “as a correct recalculation of the apportionments required” by Plaintiffs’ Counsel, Mr. Watts. *See* OTC Lawsuit, Mot. for Order to Show Cause, etc., filed Sept. 11, 2018, attached as Defs.’ Ex. E, at Ex. 4, p. 1.

25. These amounts represent *both* the amount each Plaintiff was underpaid by the OTC in MVC revenue in FY 2015 and 2016 *and* the amount of the MVC Adjustment Payments made by the OTC in FY 2018 and 2019. *See generally* Pls.’ Exs. 8-9; *see also* Pls.’ MSJ at p. 4 (“the Adjusting Payments by OTC offset those [MVC] losses [from August 2015 through August 2017] by the same amounts in FY 2019 and FY 2020 . . .”).

26. The district court therefore ordered the OTC to reallocate these MVC underpayments to Plaintiffs over 13 monthly adjustment payments. *See* Pls.’ Ex. 9.

27. The OTC fully complied with the requirements of the district court's orders in the OTC Lawsuit and made the court-ordered MVC Adjustment Payments to Plaintiffs in FY 2018 and 2019. *See* Pls.' Ex. 3 at ¶¶ 12-14.
28. "The Adjusting Payments were made to correct underpayments of MVC from FY 2016-2018 as the difference between what was actually paid during those periods and what should have been paid during those periods." Pls.' MSJ at p. 11; *see also* Pls.' Resp. to MTD at p. 11.
29. "The Adjusting Payments made up for the underpayment of MVC resulting from the OTC's miscalculation" Pls.' MSJ at 12; Pls.' Resp. to MTD at p. 14.
30. In sum, the OTC's court-ordered MVC Adjustment Payments are a "court-ordered correction" of a "loss of MVC revenue" "caused by the OTC's erroneous apportionments [of MVC] in FY2016-2018." Pls.' Resp. to MTD at pp. 4-5.
31. The court-ordered MVC Adjustment Payments are motor vehicle collections amounts "actually collected" by Plaintiff School Districts in FY 2018 and 2019, as calculated by the OTC as provided for by the final judgment in the OTC Lawsuit. *See, e.g.*, Pls.' Ex. 9 at Ex. 1.
32. For every court-ordered MVC Adjustment Payment from FY 2018 and 2019, there is an equal and opposite MVC **underpayment** from FY 2015 and 2016. *See, e.g.*, Pls.' MSJ at p. 6.
33. For every MVC **underpayment** from FY 2015 and 2016, there was an equal and opposite Foundation Aid **overpayment** from FY 2016 and 2017. *See, e.g.*, Pls.' MSJ at p. 15.
34. Accordingly, "[i]t is true that each year the OTC shorted the Plaintiff Districts their MVC payments, their Foundation Aid was greater in the next year by the amounts they were shorted." *Id.*; *see also* McWaters Depo., Pls.' Ex. 12 at pp. 65-66 ("Q. So you then say that because [Mid-Del] collected a million-six less [MVC] in 2016, then that means their state aid increases by that amount the next year[?] A. Yes. Q. And I agree with that.").

35. The OTC provided OSDE the total monthly MVC amounts for FY 2018 and 2019 for use in the Foundation Aid Formula for FY 2019 and 2020—without further itemizing that would distinguish MVC Adjustment Payments the OTC included. Pls.’ Ex. 12 at p. 52. (“Q. And what the tax commission has given you does not have any information about court-ordered adjustments? A. No.”); *see also id.* at 62, 100, 103, 105.

36. OSDE subtracted that MVC amount pursuant to the Foundation Aid Formula to arrive at Foundation Aid for FY 2019 and 2020. *See, e.g., id.* at pp. 50-52; OKLA. STAT. tit. 70, § 18-200.1; Pls.’ Ex. 1.

ARGUMENT AND AUTHORITIES

Summary judgment should be granted when “there is no substantial controversy as to any material fact and . . . one of the parties is entitled to judgment as a matter of law[.]” R. Dist. Ct. Okla. 13; *see also* OKLA. STAT. tit. 12, § 2056(C). Summary judgment is properly rendered for the defendant “[w]here the summary judgment record demonstrates want of a material element of a plaintiff’s claim,” *Shepard v. CompSource Oklahoma*, 2009 OK 25, ¶ 21, 209 P.3d 288, 294, or “that, as a matter of law, the plaintiff has no viable cause of action.” *Akin v. Missouri Pac. R. Co.*, 1998 OK 102, ¶ 9, 997 P.2d 1040, 144.

Evidentiary material is insufficient to defeat a motion for summary judgment if it “facially lack[s] probative value” or is “incapable of conversion at trial to admissible evidence.” *Copeland v. Lodge Enterprises, Inc.*, 2000 OK 36, ¶9, 4 P.3d 695, 699. “[T]he party opposing the motion has the burden of showing evidence, not mere contentions, which would justify a trial.” *Am. Nat. Bank & Tr. Co. of Shawnee v. Clarke & Van Wagner, Inc.*, 1984 OK CIV APP 37, 692 P.2d 61, 64 (citing *Weeks v. Wedgewood Village, Inc.*, 1976 OK 72, ¶ 12, 554 P.2d 780, 785).

I. PLAINTIFFS' CLAIMS ARE BARRED BY A FINAL JUDGMENT FROM A COURT OF COMPETENT JURISDICTION, WHICH CANNOT BE COLLATERALLY ATTACKED OR DISREGARDED.

When a court of competent jurisdiction exercises its judicial power, “its judgment must stand undisturbed unless challenged by a timely appeal.” *Booth v. McKnight*, 2003 OK 49, ¶ 10, 70 P.3d 855, 859. Absent a blatant jurisdictional defect on the face of the judgment roll, “[a] judgment of a court of general jurisdiction is not subject to collateral attack” *Sabin v. Lerorsen*, 1943 OK 77, ¶ 6, 145 P.2d 402, 405; *House v. Town of Dickson*, 2007 OK 57, ¶ 11, 193 P.3d 964, 968 (“A judgment or final order of a court is not subject to collateral attack unless the judgment is void.”). A “collateral attack” “is an attempt to avoid, defeat, or evade it, or deny [the judgment’s] force and effect, in some incidental proceeding not provided by law for the express purpose of attacking it.” *Griffin v. Culp*, 1918 OK 474, ¶ 5, 174 P. 495, 496; *see also Pettis v. Johnston*, 1920 OK 224, ¶ 40, 190 P. 681, 694. Here, when Plaintiffs’ petition is stripped of its veneer styling, Plaintiffs seek to re-litigate the same issues previously adjudicated before a court of competent jurisdiction in the OTC Lawsuit: the OTC’s calculation and apportionment of MVC. Plaintiffs suit here is barred as a matter of law.

A. The undisputed material facts establish the OTC—not Defendants—calculate and apportion MVC; therefore, Plaintiffs’ complaint lies with the OTC.

The undisputed material facts prove that the OTC—not Defendants—is responsible for calculating and apportioning MVC revenue to each school district. *See* Defs.’ Facts No. 8-9, 35-36. By law, OSDE simply applies the MVC amount calculated and apportioned by OTC to the Foundation Aid formula. *Id.*¹ Because the parties and the court in the OTC Lawsuit understood that *the OTC* was responsible for calculating and apportioning MVC, Plaintiffs did not name Defendants in that suit. Plaintiffs and the OTC fully adjudicated the OTC’s error in MVC from FY 2015 and 2016, all without the involvement of Defendants. *See, e.g.,* Pls.’ Ex. 9. Plaintiffs’ prior litigation

¹ The OSBE further has no role in applying the Foundation Aid formula. *See* Material Fact No. 11; OKLA. STAT. tit. 70, §§ 18-117, 18-200.1

resulted in a final judgment ordering the OTC to make MVC Adjustment Payments to correct their error. *See, e.g.*, Defs.' Facts No. 13-23.

Plaintiffs now come to this Court under the pretense of a fresh dispute, but make no mistake: they seek relief from the same error that formed the basis of the OTC Lawsuit. *See, e.g.*, Defs.' Facts No. 14-16. That error was made by the OTC, not Defendants, and it was corrected by the final judgment in the OTC Lawsuit. Because the OSDE plays no role in the MVC calculation, the OSBE plays no role in application of the Foundation Aid formula at all, and these facts were previously adjudicated and resulted in a final judgment by a court of competent jurisdiction, summary judgment is proper in Defendants' favor.

B. The final judgment in the OTC Lawsuit forecloses Plaintiffs' argument that the MVC Adjustment Payments should not be treated as MVC by the OTC.

In this suit, Plaintiffs seek an order from this Court "excluding" the OTC's court-ordered MVC Adjustment Payments from the MVC amounts used in the Foundation Aid formula. Pls.' Ex. 3 at ¶ 26. The final judgment in the OTC Lawsuit plainly forecloses the requested relief. That final judgment ordered:

OTC shall treat the revised amounts so arrived at constructively as the "taxes and fees provided for in [Title 47] in the corresponding month of the preceding year" within the meaning of 47 O.S. § 1104(B)(2)(a) for future apportionments.

Defs.' Ex. C at p. 4; *see also* Defs.' Facts No. 18-23. In other words, the OTC was ordered to treat the corrected MVC calculation, *i.e.*, revised amounts, as taxes and fees to be apportioned as motor vehicle collections under OKLA. STAT. tit. 47, § 1104(B)(2) for future court-ordered MVC Adjustment Payments, *i.e.*, future apportionments. *See* Defs.' Ex. C at p. 4. That is exactly what the OTC did, and why the OTC (again, not Defendants,) treated the court-ordered MVC Adjustment Payments as MVC in the amounts reported to OSDE. *See* Defs.' Fact No. 35.

The litigation in the OTC Lawsuit reenforces this conclusion. Time and time again, Plaintiffs

made clear the nature of their requested relief: a *correction of underpaid MVC*. See, e.g., Defs.' Facts No. 14-17. Time and time again, the district court made clear (and the Court of Civil Appeals confirmed) the nature of the relief it was granting: a *correction of underpaid MVC*. See, e.g., Defs.' Facts No. 17-23. If the clear language of the final judgment weren't enough on its own to resolve the nature of the MVC Adjustment Payments as MVC, that language paired with the continuous references to MVC certainly is. Put simply, the MVC Adjustment Payments are a delayed apportionment of MVC, and thus must be considered in the Foundation Aid formula to correct the OTC's error.

Neither Plaintiffs, the OTC, Defendants, nor this Court have the discretion to evade or deny the final judgment in the OTC Lawsuit. To the extent Plaintiffs disagree with that final judgment, they must directly attack that judgment in the OTC Lawsuit, not launch an improper collateral attack through this separate suit. Because a court of competent jurisdiction has already resolved the issue of the treatment of MVC Adjustment Payments as MVC, Plaintiffs are estopped and precluded from relitigating the same issue here. See, e.g., *Panama Processes, S.A. v. Cities Serv. Co.*, 1990 OK 66, ¶ 11 n.27, 796 P.2d 276, 283. Summary judgment is proper in Defendants' favor.

II. PLAINTIFFS HAVE NOT SUFFERED ANY LOSS OF FOUNDATION AID.

To survive summary judgment, Plaintiffs must establish the existence of a justiciable controversy. See, e.g., *Richardson v. State ex rel. Oklahoma Tax Comm'n*, 2017 OK 85, ¶ 5, 406 P.3d 571, 573. "A justiciable controversy must be definite, concrete, and capable of a decision granting or denying specific relief of a conclusive nature[.]" because courts do "not decide abstract or hypothetical questions." *Id.*; see also *Tulsa Indus. Auth. v. City of Tulsa*, 2011 OK 57, ¶ 13, 270 P.3d 113, 120 ("The term 'justiciable' refers to a lively case or controversy between antagonistic demands. . . . [W]hen only non-antagonistic demands are presented, there is no 'controversy' and an advisory opinion is being sought."). Among other things, Plaintiffs must establish "a legally protected interest which must have been injured in fact *i.e.*, suffered an injury which is actual, concrete and not

conjectural in nature” *Fent v. Contingency Review Bd.*, 2007 OK 27, ¶ 7, 163 P.3d 512, 519.

Here, Plaintiffs cannot establish an injury in fact to support the existence of a justiciable controversy, as a matter of law and fact. To arrive at this conclusion, this Court need not look at a single number, nor undertake any mathematical calculations. It is as simple as this (which is undisputed): when the OTC *underpaid* MVC in FY 2015 and 2016, the Foundation Aid was *overpaid* in FY 2016 and 2017 to make up the difference. *See* Defs.’ Facts No 4-7, 28-34. While Plaintiffs received a net negative from the OTC’s MVC apportionment due to the error, they received a net positive from the Foundation Aid apportionment.

Far from proving the harm alleged in their Petition—Plaintiffs prove they *benefitted* from *more* Foundation Aid than they were otherwise entitled. Plaintiffs can only manufacture a misleading appearance of injury by totally disregarding the 2015-2017 MVC underpayments and Foundation Aid overpayments and instead focusing exclusively on the 2018-2020 court-ordered correction. But Plaintiffs’ improper framing does not change the material, underlying facts. Those facts give rise to only one irrefutable legal conclusion: Plaintiffs have suffered no actual loss of Foundation Aid from the OTC’s treatment of MVC Adjustment Payments as MVC. *See* Defs.’ Facts No. 35-36. When the OTC reported the MVC Adjustment Payments to the OSDE for the Foundation Aid formula in FY 2019 and 2020, the Foundation Aid overpayment *self-corrected*.

The actual numbers, when presented in their entirety, confirm this *one* legal conclusion. As does the elementary arithmetic necessary to make sense of those numbers. Plaintiffs’ Motion for Summary Judgment suffers from the same fatal flaws put forth in their Response to Defendant OSBE’s Motion to Dismiss. *Compare* Pls.’ Resp. to MTD *and* Pls.’ MSJ at 14-20 *to* Defs.’ Reply in Support of MTD, Pls.’ Ex. 2A. Plaintiffs repackage the same flawed charts Defendant OSBE succinctly refuted in its Reply in Support of the Motion to Dismiss (“Reply”), Pls.’ Ex. 2A, each of

which blatantly omits the MVC underpayments occurring in FY 2015 and 2016.² For example, Plaintiffs again include a one-sided “Chart A” which includes all the relevant fiscal years, and even a row labeled “correction”, but omits the corresponding MVC underpayments occurring in FY 2015 and 2016. It is telling that Plaintiffs fail to interact with a corrected Chart A submitted by OSBE in the Reply. That corrected chart illustrates how each MVC Adjustment Payment offsets a historic MVC underpayment:

Plaintiffs’ Chart A – Motor Vehicle Collections (Corrected by Defendants)

Ponca City	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	TOTAL
Apportioned	2,542,308	2,140,885	1,902,400	1,852,973	1,879,768	2,199,535	1,858,895	14,376,764
Correction		(432,445)	(27,602)		35,388	424,659		(0)
Corrected	2,542,308	2,573,330	1,930,002	1,852,973	1,844,380	1,774,875	1,858,895	14,376,764

With the historic underpayments of MVC included, Chart A shows a total absence of injury.

That lack of injury is even more evident when the MVC error is applied to the Foundation Aid formula, which was presented in “Plaintiffs’ Exhibit 3 (Corrected by Defendants)” in the Reply. *See* Pls.’ Ex. 2A at pp. 3-4. Although Plaintiffs do interact with this chart, and insult it as “ridiculous”, they fail to dispute anything in the table, and even concede Defendant’s “Corrected Actual Revenue” is correct. *See* Pls.’ MSJ at pp. 19-20 (“Still, their ‘bottom line’ mathematical result, ‘Correct Actual Revenue’, is the same as ours . . .”). In reality, Plaintiffs cannot dispute Defendant’s corrected chart because it fully and accurately demonstrates what occurred: a Foundation Aid overpayment corrected by the MVC Adjustment Payments.

² Again, the amount of these MVC underpayments is not subject to collateral attack because it was an undisputed finding in the final judgment in the 2016 case and specifically approved of by Counsel for Plaintiffs. *See* Defs.’ Facts No. 24-25.

Plaintiffs' Exhibit 4 (Corrected by Defendants)

Ponca City	Actual Revenue						Totals
	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	
Actual Motor Vehicle (MVC)	2,140,885	1,902,400	1,852,973	1,879,768	2,199,535	1,858,895	11,834,456
Actual Foundation Aid	4,651,726	4,692,814	4,991,673	5,967,876	5,834,667	4,512,563	30,651,319
Actual Revenue	12,764,782	12,560,555	12,942,849	13,978,676	14,307,793	12,676,850	79,231,504
Correct MVC	2,573,330	1,930,002	1,852,973	1,844,380	1,774,875	1,858,895	11,834,456
Correct Foundation Aid	4,651,726	4,260,368	4,964,071	5,967,876	5,870,056	4,937,222	30,651,319
Correct Actual Revenue	13,197,228	12,155,712	12,915,247	13,943,287	13,918,522	13,101,509	79,231,504
MVC Gain/Loss	(432,445)	(27,602)	-	35,388	(424,659)	-	(0)
Foundation Aid Gain/Loss	-	122,118	1,138,702	-	(35,388)	(424,659)	(0)
Revenue Gain/Loss	(432,445)	(404,843)	(27,602)	(35,388)	(389,271)	(424,659)	(0)

With previous underpayments of MVC included, corrected Exhibit 4 accurately establishes the self-correcting effect of the OTC's MVC Adjustment Payment on Foundation Aid and Revenue. This self-correction effect is best illustrated by the "Totals" column, which shows no revenue gains or losses, but a cumulative MVC loss offset by a cumulative Foundation Aid gain. Removing the MVC Adjustment Payments from the Foundation Aid formula, as Plaintiffs demand, would result in a cumulative gain in revenue in the amount of the extra Foundation Aid Plaintiffs would not have received had the OTC correctly apportioned MVC. For Ponca City, as illustrated above, that would result in a windfall of \$460,047. *See also* Defs.' Fact No. 23(a).

Plaintiffs' final sideshow into unhelpful charts returns us to Tables 1 and 2. Pls.' MSJ at pp. 15-17; *see also* Pls.' Resp. to MTD at 3-5.³ These tables, as with Plaintiffs' arguments in general, improperly conflate the natural fluctuation in MVC revenues, caused by any number of intervening factors, with the specific MVC errors at issue. Plaintiffs cannot establish an actual injury to support their claims by complaining of intervening factors or fluctuations lacking any causal connection to

³ Plaintiffs summarily claim that Defendants "abandoned" the table analysis in the OSBE's Reply. *See* Pls.' MSJ at p. 16. As Plaintiffs should understand, OSBE was limited to five-pages in the Reply, and simply had to prioritize rebutting Plaintiffs' most egregious errors. *See* Rule 37 of the Rules of the Seventh Jud. and Twenty-Sixth Admin. Dists.

the OTC's error. And yet, that's exactly what they try to achieve through Tables 1 and 2.

Plaintiffs' Table 1 accurately reflects the methodology proposed (and used) by Defendants in original Table 1, while Plaintiffs' Table 2 accurately reflects the methodology proposed by Plaintiffs and used by Defendants in original Table 2. *Compare* Pls.' MSJ at p. 17 to Pls.' Ex. 2 at p. 15. But Plaintiffs' Tables 1 and 2 assume that "MVC does not rebound[,]" Pls.' MSJ at p. 16, whereas Defendants' Tables 1 and 2 keep the MVC constant. The reason Defendants kept all the values constant was to *isolate the MVC error*, so that the results of the OTC's error would be readily apparent. All Plaintiffs' Tables added was an *additional fluctuation* that makes the OTC's error less readily apparent. But adding in a control, that assumes the OTC never made an MVC calculation error in Year 0 (which should be 30 instead of 20), reveals that Plaintiffs' Tables should return a total of -10:

Table B.1 Pls.' MVC Tables 1 and 2 Without Error (Control)

	Year -1	Year 0	Year 1	Year 2	Year 3	Totals
Formula Target	100	100	100	100	100	
(-) MVC (prior year)	30	30	30	20	20	
State Aid	70	70	70	80	80	
(+) MVC (current)	30	30	20	20	20	
(+) OTC (correction)						
Total to District	100	100	90	100	100	
Net Benefit	0	0	-10	0	0	-10

So Plaintiffs' Table 1—Defendants' methodology—accurately returns the same starting condition (-10), while Plaintiffs' Table 2—Plaintiffs' methodology—inaccurately returns a gain of 10 (0). Again, far from establishing any actual injury, Plaintiffs' table analysis proves they suffered no injury, and in fact seek an inequitable windfall.

Without the shield of over-complicated numbers and charts, Plaintiffs again resort to an illogical argument that a one-year "lag" in the MVC charge (versus the Ad Valorem chargeable) somehow refutes the self-correcting effect of the MVC Adjustment Payments. *See* Pls.' MSJ at p. 15. To the contrary, the *Stroud* case, 2018 OK 34, 418 P.3d 693, is directly on point, with the nominal

exception that the self-correcting error in MVC will manifest on a one-year delay. That one-year delay applies uniformly to both the MVC underpayment error (which actually occurred in FY 2015 and 2016) and the MVC Adjustment Payments (which actually occurred in FY 2018 and 2019). And here, Plaintiffs give away the game when they finally concede that the underpayment of MVC caused an overpayment in Foundation Aid. *Id.* Although “that extra Foundation Aid” paid in FY 2016 and 2017 may not have “replace[d] [Plaintiffs’] lost MVC[.]” the court-ordered MVC Adjustment Payments in FY 2018 and 2019 certainly did. Any other discrepancies that may or may not exist in MVC, revenue, or Foundation Aid⁴ are simply not caused by any “miscalculation” of MVC by OTC, nor any “misapplication” of the Foundation Aid Formula by OSDE.

To exclude the court-ordered MVC Adjustment Payments from the Foundation Aid Formula would cause a windfall in the amount of the MVC Adjustment Payments, paid to Plaintiffs in Foundation Aid in FY 2016 and 2017. Because Plaintiffs suffered no loss in Foundation Aid, and their requested relief seeks an improper windfall, Defendants should be awarded summary judgment.

III. DEFENDANTS PROPERLY INTERPRETED AND APPLIED THE FOUNDATION AID FORMULA.

Even if Plaintiffs’ suit could survive the many dispositive hurdles thus far, Plaintiffs cannot establish Defendants improperly interpreted or applied OKLA. STAT. tit. 70, § 18-200.1 as a matter of law. The relevant part of the Foundation Aid Formula merely requires OSDE to subtract “Motor Vehicle Collections” from the Foundation Program Cost. *See* OKLA. STAT. tit. 70, § 18-200.1(D)(1)(b)(3); *cf.* Pls.’ MSJ at p. 11 (“This case boils down to one concept: Foundation Aid must be calculated by subtracting the Foundation Program Income (the total of the chargeables) from the total Foundation Program amount. MVC are part of the Foundation Program Income . . .”); Defs.’ Facts No. 8-9.

⁴ Any other intervening effects on the MVC or the Foundation Aid are not properly before this Court, are not material facts, and would not be undisputed. *See* Defs.’ Fact No. 3.

The phrase “Motor Vehicle Collections” is not further defined, nor would it be because the OTC—not OSDE—calculates and apportions MVC revenue. *Compare* OKLA. STAT. tit. 70, § 18-200.1 *with* OKLA. STAT. tit. 47, § 1104. In fact, a legislative effort to define the phrase “Motor Vehicle Collections” as Plaintiffs here demand failed in 2019. *See* Letter dated Jun. 6, 2019, attached as Defs.’ Ex. F, at pp. 3-4, Ex. B at p. 6 (proposing the following clause after “Motor Vehicle Collections[:]” “which for each school district shall consist of an amount based on the proportion of the total amount actually collected by all districts during the preceding fiscal year . . .”). In sum, a plain reading of “Motor Vehicle Collections” in Section 18-200.1(D)(1)(b) refutes Plaintiffs’ suggestion that MVC Adjustment Payments should be excluded from MVC under the Foundation Aid Formula.

Realizing the phrase “Motor Vehicle Collections” provides no support for their interpretation, Plaintiffs instead point to the following phrase, applicable to *all chargeables*:

[The chargeable income amounts] shall consist of the amounts actually collected from such sources during the preceding fiscal year calculated on a per capita basis on the unit provided for by law for the distribution of each such revenue.

Pls.’ MSJ at p. 10 (quoting OKLA. STAT. tit. 70, § 18-200.1(D)(1)(b)).⁵ Plaintiffs fixate on the phrase “calculated on a per capita basis” but ignore the crucial language immediately after: “on the unit provided for by law for the distribution of each such revenue.” The law for distribution of MVC, of course, is applied by the OTC, not OSDE. *See* OKLA. STAT. tit. 47, § 1104.⁶ Plaintiffs’ actual complaint lies with the OTC’s interpretation and application of Title 47, Section 1104. No wonder Plaintiffs spend much of their rhetoric on Section 1104. *See* Pls.’ MSJ at p. 12 (“According to the plain and ordinary meaning of the language in the ‘law for the distribution’ of MVC, 47 O.S. § 1104(B)(2), there is no room to include the court-ordered Adjusting Payments.”).

⁵ This language has remained the same since at least 2005. *See* 2005 O.S.L. 90 (S.B. 531).

⁶ The law for distribution of MVC in this case is not limited to the statute. It further includes the law contained in the final judgment and orders in the OTC Lawsuit.

Plaintiffs' strained construction of OKLA. STAT. tit. 70, § 18-200.1 (D)(1)(b) is further contradicted by the plain reading of "amounts actually collected" in the relevant text.⁷ The surrounding context of Section 18-200.1 makes clear these "amounts actually collected" refer to the MVC amounts collected by the school district, which is the subject of the statute—not the OTC. *See* OKLA. STAT. tit. 70, § 18-200.1(B). Because the MVC Adjustment Payments were actually collected by Plaintiffs in FY 2018 and 2019, as provided for by law (including the court order), the OTC properly treated them as MVC in the amount given to OSDE for the Foundation Aid Formula for FY 2019 and 2020.

To be sure, Plaintiffs are estopped from re-litigating in this Court whether the OTC properly re-calculated the MVC underpayments and Adjustment Payments. The recalculation was an undisputed finding of fact incorporated in the final judgment in the OTC Lawsuit, and specifically approved of by Counsel for Plaintiffs. *See* Defs.' Facts No. 23-26. To the extent the OTC's MVC Adjustment Payments were not "calculated on a per capita basis on the unit provided for by law for the distribution of each such revenue[.]" Plaintiffs' complaint lies with the OTC and the final judgment in the OTC Lawsuit—not OSDE who merely subtracts the MVC amount given by OTC. *See* Defs.' Fact Nos 35-36. Because Plaintiffs cannot prove Defendants improperly interpret or apply the Foundation Aid Formula found in OKLA. STAT. tit. 70, § 18-200.1, summary judgment is proper.

CONCLUSION

For these many reasons, Defendants respectfully requests this Court enter an order denying Plaintiffs' Motion for Summary Judgment and granting Defendants' Counter-Motion for Summary Judgment, as well as all further relief that is just and necessary.

⁷Plaintiffs' Motion for Summary Judgment incorrectly refers to this language as "actually [and routinely] collected", despite the term "routinely" not appearing in Section 18-200.1. *Id.* at p. 13.

Respectfully Submitted,

A. A. Weaver

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Counsel for Defendants

CERTIFICATE OF SERVICE

This certifies that on this 1 day of August, 2022 a true and correct copy of the foregoing instrument was mailed, postage prepaid to the following:

Jay P. Walters
GABLEGOTWALS
BOK Park Plaza
499 W. Sheridan Ave., Suite 2200
Oklahoma City, OK 73102

and

Gary Watts
1564 South Gillette Ave.
Tulsa, OK 74104
Counsel for Plaintiffs

A. A. Watts





CV-16-1249
Parrish

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

INDEPENDENT SCHOOL DISTRICT No. 2,)
TULSA COUNTY, OKLAHOMA;)
INDEPENDENT SCHOOL DISTRICT No. 52,)
OKLAHOMA COUNTY, OKLAHOMA;)
INDEPENDENT SCHOOL DISTRICT No. 71,)
KAY COUNTY, OKLAHOMA;)
INDEPENDENT SCHOOL DISTRICT No 20,)
MUSKOGEE COUNTY, OKLAHOMA;)
INDEPENDENT SCHOOL DISTRICT No. 18,)
JACKSON COUNTY, OKLAHOMA,)
INDEPENDENT SCHOOL DISTRICT No. 14,)
OTTAWA COUNTY, OKLAHOMA;)
INDEPENDENT SCHOOL DISTRICT No. 105,)
BLAINE COUNTY, OKLAHOMA; and)
INDEPENDENT SCHOOL DISTRICT NO. 2,)
KIOWA COUNTY, OKLAHOMA,)

Plaintiffs,)

v.)

OKLAHOMA TAX COMMISSIONER, STEVE)
BURRAGE; OKLAHOMA TAX)
COMMISSIONER DAWN CASH; and)
OKLAHOMA TAX COMMISSIONER,)
THOMAS E. KEMP, JR.,)

Defendants.)

31
RICK WARREN
COURT CLERK

JUN 15 2016

FILED IN DISTRICT COURT
OKLAHOMA COUNTY

CV-2016-1249

Case No.

PETITION FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiff independent school districts respectfully submit this as their Petition for Declaratory and Injunctive relief.

1. This is an action pursuant to 12 O.S. § 1651 et seq., to determine and declare the proper construction of the statutory apportionment of motor vehicle collections to the Plaintiff school districts, and for injunctive relief to require the Defendant Oklahoma Tax Commissioners to properly apply those statutes in the future. Defendants have misapplied the statutes described herein, resulting in shortages ranging from several thousand to over one million dollars for each

of the Plaintiff school districts. An actual controversy exists between Plaintiff school districts and Defendant Tax Commissioners regarding the construction and application of these statutes.

PARTIES

2. Plaintiffs are Oklahoma independent school districts. They are Independent School District No. 2, Tulsa County, Oklahoma, (Sand Springs Public Schools), Independent School District No. 52, Oklahoma County, Oklahoma, (Mid-Del Public Schools), Independent School District No. 71, Kay County, Oklahoma, (Ponca City Public Schools), Independent School District No. 20, Muskogee County, Oklahoma, (Muskogee Public Schools), Independent School District No. 18, Jackson County, Oklahoma, (Altus Public Schools), Independent School District No. 14, Ottawa County, Oklahoma, (Quapaw Public Schools), Independent School District No. 105, Blaine County, Oklahoma (Canton Public Schools), and Independent School District No. 2, Kiowa County, Oklahoma, (Lone Wolf Public Schools). The school board of each Plaintiff school district has authorized this action in an Open Meeting. All legal prerequisites to this action have been met by each Plaintiff school district.

3. Defendants are Oklahoma Tax Commissioners Steve Burrage, Dawn Cash, and Thomas E. Kemp, Jr. They are charged with the governance and administration of the Oklahoma Tax Commission (OTC). They are sued in their official capacities only. By law the OTC apportions certain motor vehicle collections to school districts as described herein. The OTC is headquartered in Oklahoma County and venue for this action is appropriate in this Court.

FACTS

4. Pursuant to statute, the OTC apportions 36.20% of motor vehicle collections to school districts. Since July 1, 2015 the OTC has apportioned those collections as described in the affidavit of Janelle Enevoldsen, Director of the OTC Management Services Division (the Division),

attached hereto as Exhibit 1 and incorporated herein. As demonstrated below, since July 1, 2015 the OTC has misapplied the pertinent statutes, omitting two legally required steps in the allocation. As a result, Plaintiff school districts have not been apportioned motor vehicle collections as required by law. This illegality has deprived Plaintiff districts of funds to which they are entitled since July 1, 2015, and distorts apportionments they will receive in the future.

5. The statute governing the allocation of these motor vehicle collections is 47 O.S. § 1104(B)(2), the pertinent part of which is as follows:

a. except as otherwise provided in this subparagraph, each district shall receive the same amount of funds as such district received from the taxes and fees provided in this title in the corresponding month of the preceding year. Any district eligible for funds pursuant to the provisions of this section that was not eligible the preceding year shall receive an amount equal to the average daily attendance of the applicable year multiplied by the average daily attendance apportionment within such county for each appropriate month. For fiscal year 1995 and thereafter, any district which received less than twenty-five percent (25%) of the average apportionment of the monies made to school districts in this state based on average daily attendance in fiscal year 1995 shall receive an amount equal to the average daily attendance in the 1994-1995 school year multiplied by the average daily attendance apportionment within the county in which the district is located for each appropriate month, and

b. any funds remaining unallocated following the allocation provided in subparagraph a of this paragraph shall be apportioned to the various school districts so that each district shall first receive the cumulative total of the monthly apportionments for which it is otherwise eligible under subparagraph a of this paragraph and then an amount based upon the proportion that each district's average daily attendance bears to the total average daily attendance of those districts entitled to receive funds pursuant to this section as certified by the State Department of Education.

(Emphasis added).

6. Thus, the statute 47 O.S. § 1104(B)(2) prescribes a three step allocation of motor vehicle collections to school districts. These steps are:

First, Subparagraph (a) requires an allocation of the same amount of funds as the district received from taxes and fees (motor vehicle collections) in the corresponding month of the previous year.

Second, Subparagraph (b) *first* requires an additional allocation if there remains additional funds unallocated by Subparagraph (a), sufficient to provide school districts with enough revenue so the districts receive the *cumulative total of the monthly apportionments* they should have received under Subparagraph (a).

Third, *then* only if there are still funds left unallocated after any cumulative shortfall has been made up, each district gets its proportional share of the remainder based upon the proportion its average daily attendance (ADA) bears to the total ADA of all districts entitled to receive funds, as certified by the State Department of Education (SDE).

The second statutory step that brings the districts up to the *cumulative total of monthly apportionments* they would have received under Subparagraph (a) clearly contemplates allocations under Subparagraph (a) may sometimes fall short, and then the shortage would be made up later by operation of the first part of Subparagraph (b). Even if no allocation were made for the first step, the second step found in 47 O.S. § 1104(B)(2)(b) requires available funding go *first* toward making up the cumulative total of apportionments that should have been received under Subparagraph (a), or as much of that shortfall as could be made up with existing funds, any remaining shortfall to be made up later. *Then* only after any such shortage is made up, may the OTC allocate any remainder according to the districts' proportional share of the total ADA in the third statutory step.

7. Since July 1, 2015 in every month except September and December, 2015 and March 2016, the monthly motor vehicle collections have been *less* than those of the corresponding month of the preceding year. In those under collection months, the OTC has improperly apportioned available motor vehicle collections to school districts by *completely skipping* the first two of the three required statutory steps explained above. Instead, all amounts have been apportioned to school districts using only the third step, based on the proportion that the district's ADA bears to

the total average ADA of all districts under the provisions of 47 O.S. § 1104(B)(2)(b). See Exhibit 1, Enevoldsen affidavit, ¶ 7. Further, in September and December 2015, and March, 2016, in which motor vehicle collections were *more* than the corresponding months of the preceding year, the OTC still skipped the second step in the statute, and distributed the excess funds according to the proportional ADA method, depriving Plaintiff districts the chance to make up the cumulative shortfall in monthly apportionments under Subparagraph (a). See, Exhibit 1, Enevoldsen affidavit, ¶ 6.

8. As a result of the OTC's misapplication of the statute, through May, 2016 the Plaintiff school districts were illegally deprived of allocations at least in the following amounts:

School district	Cumulative loss in allocation as of May, 2016
Sand Springs	\$300,000
Mid-Del	\$1,320,000
Ponca City	\$307,000
Muskogee	\$287,000
Altus	\$252,000
Quapaw	\$44,000
Canton	\$25,000
Lone Wolf	\$29,000

These shortfalls prevent the Plaintiffs from receiving the amount of Foundation Program income they are intended to receive from the State Department of Education pursuant to Title 70 Section 18-200.1 et seq. which reduces their ability to provide educational services to their students.

9. Pursuant to 12 O.S. § 1651, et seq., the Court should declare the proper construction of 47 O.S. § 1104(B)(2) to require the Defendants and the OTC to apportion motor vehicle collections in the three steps set forth herein and as required by the statute with respect to the Plaintiff districts.

10. Further, the Court should temporarily and permanently enjoin the Defendants to establish and maintain the proper apportionment of motor vehicle collections in the future pursuant to 47 O.S. § 1104(B)(2) with respect to the Plaintiff districts. Specifically, first, with respect to the Plaintiff districts the Court should enjoin Defendants to allocate motor vehicle receipts to Plaintiff districts pursuant to 47 O.S. § 1104(B)(2)(a), even in any month in which the collections are *less* than in the corresponding month of the preceding year. If, for any month, the funds available are insufficient to provide the total allocation required in subparagraph a of paragraph 1104(B)(2), the Court should require each Plaintiff district to receive a proportionate share of the funds available based upon the proportion of the total revenues that such district received in the corresponding month of the preceding year (the proportional share). For all purposes, if such month of the preceding year was a month for which the OTC incorrectly (illegally) applied 47 O.S. § 1104(B)(2), i.e. since July 1, 2015, said “total revenues that such district received in the corresponding month of the preceding year” the court should require they be recalculated by the OTC to be the amount that such district would have received if the OTC had correctly applied 47 O.S. § 1104(B)(2)(a), as prayed for herein, in order to prevent future diminution of apportionments based its wrongful construction of the statute.

11. Second, the Court should order the Defendants to give effect to step 2 which is set forth in subparagraph (b). *First*, the Court should order Defendants to maintain a calculation of the cumulative total of the monthly apportionments (amounts due) less monthly allocations (amounts of payments made) under subparagraph a and this first part of subparagraph b for each


of the plaintiff districts. This difference would be the "cumulative total of the monthly apportionments for which it is otherwise eligible under subparagraph (a)..."(the cumulative total). Second, in months in which motor vehicle collections are *more* than those in the corresponding month of the previous year, the Court should enjoin Defendants to adhere to the second step in 47 O.S. § 1104(B)(2)(b) to apportion funds remaining unallocated under subparagraph a to satisfy a proportionate share of each Plaintiff District's cumulative total to bring the Plaintiff Districts as close as possible to the cumulative total of monthly allocations they would have received under Subparagraph (a) as properly construed and applied. The Court should order this process to continue until Plaintiff districts have recovered the cumulative total of monthly apportionments for which they are otherwise eligible since July 1, 2015 as set forth in Paragraph 8 herein, or as the evidence may support at trial.

12. Third, the Court should prohibit Defendants from apportioning motor vehicle collections to the Plaintiff districts pursuant to the third step in 47 O.S. § 1104(B)(2)(b) by the proportional ADA method until any and all *cumulative total of monthly apportionments since July 1, 2015* has been made up by application of steps one and two.

PRAYER

Wherefore, premises considered, Plaintiff Districts pray for declaratory and injunctive relief, both temporary and permanent, as set forth herein, and for such other relief as the Court deems proper, and for their costs and attorney fees in this matter.

Respectfully submitted,



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ATTORNEYS FOR PLAINTIFFS

AFFIDAVIT OF JENNELLE ENEVOLDSEN

State of Oklahoma)
) ss
County of Oklahoma)

Jennelle Enevoldsen, of legal age, being first duly sworn, states and deposes:

1. I am the Director, Management Services Division ("Division"), Oklahoma Tax Commission. I make this affidavit based upon my personal knowledge and information garnered from the records of the Oklahoma Tax Commission, as maintained in the ordinary course of the performance of its duties. The Management Services Division is charged with apportionment of all monies collected by the Oklahoma Tax Commission, including taxes and fees collected or received pursuant to the Oklahoma Vehicle License and Registration Act ("Motor Vehicle collection"), 47 O.S. §§ 1-101 *et seq.*.
2. Prior to July 1, 2015, the statute which directs the apportionment of Motor Vehicle collections to school districts, among others, prohibited school districts from receiving less money than school districts received in the same month as the previous fiscal year. This is commonly referred to as "hold harmless".
3. After the close of each month, Motor Vehicle collections are reduced by dedicated funds to determine the amount to be apportioned. By statute, school districts receive 36.20% of this amount.
4. The amount to be apportioned for the month is compared to the amount apportioned in the same month of the previous fiscal year. Prior to July 1, 2015, for any month in which the amount to be apportioned was less than the amount apportioned to school districts in the same month of the previous fiscal year, the hold harmless provision was applied resulting in

**PLAINTIFF'S
EXHIBIT**
1

monies that would have otherwise gone to the general fund being used to ensure school districts received no less than received in the previous year.

5. HB 2244, effective July 1, 2015, deleted the hold harmless provision. However, §1104(B)(2)(a) which was not amended in HB 2244, directs that each district "shall receive the same amount of funds as such district received in the corresponding month of the preceding year.

The statute directs apportionment of Motor Vehicle collections to school districts as follows:

a. except as otherwise provided in this subparagraph, each district shall receive the same amount of funds as such district received from the taxes and fees provided in this title in the corresponding month of the preceding year. Any district eligible for funds pursuant to the provisions of this section that was not eligible the preceding year shall receive an amount equal to the average daily attendance of the applicable year multiplied by the average daily attendance apportionment within such county for each appropriate month. For fiscal year 1995 and thereafter, any district which received less than twenty-five percent (25%) of the average apportionment of the monies made to school districts in this state based on average daily attendance in fiscal year 1995 shall receive an amount equal to the average daily attendance in the 1994-1995 school year multiplied by the average daily attendance apportionment within the county in which the district is located for each appropriate month, and

b. any funds remaining unallocated following the allocation provided in subparagraph a of this paragraph shall be apportioned to the various school districts so that each district shall first receive the cumulative total of the monthly apportionments for which it is otherwise eligible under subparagraph a of this paragraph and then an amount based upon the proportion that each district's average daily attendance bears to the total average daily attendance of those districts entitled to receive funds pursuant to this section as certified by the State Department of Education.

6. Subsequent to July 1, 2015, if the amount of Motor Vehicle Collections to be apportioned is equal to or greater than the amount apportioned in the corresponding month of the previous fiscal year, monies are being apportioned to individual school districts as follows:

a. The same amount that was allocated to each school district in the corresponding month of the previous year under the provisions of §1104(B)(2)(a), and

- b. If any amounts remain, allocate the remaining to each school district based on the proportion that district's average daily attendance bears to the total average daily attendance of all districts under the provisions of §1104(B)(2)(b).

7. Subsequent to July 1, 2015, if the amount of Motor Vehicle Collections to be apportioned is less than the amount apportioned in the corresponding month of the previous fiscal year, monies are being apportioned to individual school districts as follows:

- a. No amounts under provisions of §1104(B)(2)(a) as insufficient monies exist for each school district to receive the same amount of funds as such district received in the corresponding month of the preceding year, and
- b. All amounts will be allocated to the school districts based on the proportion that district's average daily attendance bears to the total average daily attendance of all districts under the provisions of §1104(B)(2)(b).

8. For the months of September 2015 and December 2015, Division apportioned Motor Vehicle collections to school districts pursuant to paragraph 6 above. For all other months subsequent to July 1, 2015, Division has apportioned Motor Vehicle collections to school districts pursuant to paragraph 7 above.

9. For the months of September 2015 and December 2015, Petitioner received more money than Petitioner received in the corresponding months of the previous year. For all of the other months, Petitioner received less money than Petitioner received in the corresponding months of the previous year.

10. For the months Division apportioned Motor Vehicle collections to school districts pursuant to paragraph 7 above, some school districts, like Petitioner, received less money than

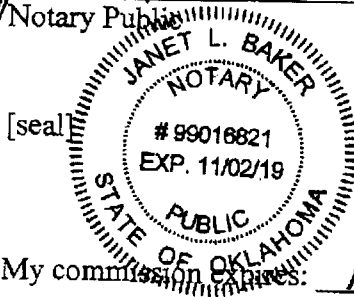
received in the corresponding months of the previous year and other school districts received more money than received in the corresponding months of the previous year.

This completes my affidavit.

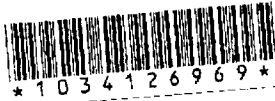
Jennelle Enevoldsen
Jennelle Enevoldsen

Subscribed and sworn before me
this 1st day of April, 2016.

Janet L. Baker
Notary Public







IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

INDEPENDENT SCHOOL DISTRICT No. 2,)
TULSA COUNTY, OKLAHOMA;)
INDEPENDENT SCHOOL DISTRICT No. 52,)
OKLAHOMA COUNTY, OKLAHOMA;)
INDEPENDENT SCHOOL DISTRICT No. 71,)
KAY COUNTY, OKLAHOMA;)
INDEPENDENT SCHOOL DISTRICT No 20,)
MUSKOGEE COUNTY, OKLAHOMA;)
INDEPENDENT SCHOOL DISTRICT No. 18,)
JACKSON COUNTY, OKLAHOMA,)
INDEPENDENT SCHOOL DISTRICT No. 14,)
OTTAWA COUNTY, OKLAHOMA;)
INDEPENDENT SCHOOL DISTRICT No. 105,)
BLAINE COUNTY, OKLAHOMA; and)
INDEPENDENT SCHOOL DISTRICT NO. 2,)
KIOWA COUNTY, OKLAHOMA,)

Plaintiffs,)

v.)

OKLAHOMA TAX COMMISSIONER, STEVE)
BURRAGE; OKLAHOMA TAX)
COMMISSIONER DAWN CASH; and)
OKLAHOMA TAX COMMISSIONER,)
THOMAS E. KEMP, JR.,)

Defendants.)

FILED IN DISTRICT COURT
OKLAHOMA COUNTY

AUG 25 2016

RICK WARREN
COURT CLERK

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Case No. CV-2016-1249

PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Plaintiffs, eight independent school districts in Oklahoma, move for summary judgment because there is no genuine issue of material fact that the Oklahoma Tax Commission (OTC) Defendants have been misapplying the statute that governs apportionment of motor vehicle revenue to Plaintiff school districts. The affidavit of OTC official Jennelle Enevoldsen, Exhibit 3 hereto, is a signed admission to facts establishing that the OTC has misapplied the law. Admissions in the Answer reinforce that conclusion.

Plaintiff districts seek a judgment of the Court finding, based on the undisputed facts, that the OTC has apportioned motor vehicle tax revenues to Plaintiff school districts in a way which is contrary to the statute directing such apportionment, and prospectively directing the OTC to apportion motor vehicle tax revenues to Plaintiff districts in compliance with the statute. Additionally, the Court should order the OTC Defendants to recalculate the records of Plaintiff districts since July, 2015 so that prospectively Plaintiff districts will receive the proper apportionments under the statute.

STATEMENT OF MATERIAL UNDISPUTED FACTS

1. An actual controversy exists between the parties regarding the construction and application of the statute governing apportionment of motor vehicle collections to school districts, 47 O.S. § 1104(B)(2). Petition, Exhibit 1, ¶ 1 (hereafter simply Petition), Answer, Exhibit 2, ¶ 1 (hereafter simply Answer).

2. Plaintiff Districts have received less revenue in some months (August, September, November and December, 2015 and February, March, May, June, July, and August, 2016) since July 1, 2015 than they would have received had the OTC Defendants allocated them their proportional¹ share of reduced motor vehicle collection revenues. In months in which motor vehicle collections since July 1, 2015 were *less* than such collections in the corresponding month of the previous year Plaintiff districts received less than their proportional share while other districts were apportioned more motor vehicle collections. Enevoldsen Affidavit, Exhibit 3, ¶ 10. Affidavit of Medcalf, Exhibit 4 hereto. Exhibit 7.

¹ For corresponding months of last year and this year, by “proportional” Plaintiffs means the percentage of last year’s total apportionment available this year for apportionment determined as follows: this year’s funds divided by last year’s funds expressed as a percentage.

3. Pursuant to statute, the OTC Defendants apportion 36.20% of motor vehicle collections to school districts. Petition ¶ 4, Exhibit 1, Enevoldsen Affidavit, Exhibit 3, ¶ 3, Answer, Exhibit 2, ¶ 4. Since July 1, 2015 the OTC Defendants have apportioned motor vehicle collections as described in the Affidavit of Jennelle Enevoldsen (Enevoldsen affidavit), Director, Management Services Division of the OTC) Petition, ¶ 4, Enevoldsen Affidavit, Exhibit 3, ¶¶ 6, 7, Answer, Exhibit 2, ¶ 4.

4. Since July 1, 2015, motor vehicle collections were *less* than motor vehicle collections of the corresponding month of the preceding year for all months except September 2015, December, 2015, and March 2016. Petition, Exhibit 1, ¶ 7, Enevoldsen Affidavit Exhibit 3, ¶ 8, Answer, Exhibit 2, ¶ 7, Medcalf Affidavit, Exhibit 4, ¶ 4. In those months since July 1, 2015 in which the amount of motor vehicle collections to be apportioned is *less* than the amount apportioned in the corresponding month of the preceding year, the OTC Defendants apportioned monies to individual school districts as follows:

- a. No amounts were allocated under provisions of § 1104(B)(2)(a) as insufficient monies existed for each school district to receive the same amount of funds as such district received in the corresponding month of the preceding year, and
- b. All amounts were allocated to the school districts based on the proportion that district's average daily attendance bears to the total average daily attendance of all districts under the provisions of § 1104(B)(2)(b).

Enevoldsen Affidavit, Exhibit 3, ¶¶ 7-8, Medcalf Affidavit, Exhibit 4, ¶ 2. Thus, no amounts were apportioned pursuant to statutory Steps 1 and 2 (as defined below) found in Subsection 47 O.S. § 1104 (B)(2)(a) and (b).

5. In the months since July 1, 2015 in which the amount of motor vehicle collections to be apportioned was *equal to or greater than* the amount apportioned in the corresponding month of

the previous fiscal year, monies to be apportioned to individual school districts were apportioned as follows:

- a. The same amount that was allocated to each school district in the corresponding month of the preceding year under the provisions of § 1104(B)(2)(a), and
- b. If any amounts remained, they were allocated to each school district based on the proportion that district's average daily attendance bears to the total average daily attendance of all districts under the provisions of § 1104(B)(2)(b).

Petition ¶ 7, Enevoldsen Affidavit, Exhibit 3, ¶¶ 6, 8, Answer, ¶ 7. Thus, no amounts were apportioned pursuant to statutory Step 2 found in Subsection (B)(2)(b).

6. The amount that each school district receives in any month of a particular year is to be the same as that month in the previous year. 47 O.S. § 1104(B)(2)(a). OTC's misapplication of the statute since July, 2015 caused Plaintiff districts to incorrectly receive diminished apportionments; therefore, that diminished amount will serve as the amount to be apportioned in the subsequent year. In each year, each school district is to be apportioned the same amount as it received in the corresponding month of the prior year. The diminished amount for the last year creates an incorrect and diminished benchmark for apportionment in the next year. 47 O.S. § 1104(B)(2)(a) (explained below), Affidavit of Medcalf, Exhibit 4, ¶ 8 & 12. This detriment will persist unless the Court requires the OTC Defendants to administratively correct the diminished allocation resulting from OTC's improper use of the proportional ADA method of allocation. Enevoldsen Affidavit, Exhibit 3, ¶¶ 7-8. If OTC uses as the "preceding year" figures the sums that OTC *would have* allocated to the Plaintiff districts had OTC properly allocated the Plaintiff Districts their proportional share of the motor vehicle collections available that month, the detriment will be remedied prospectively. Affidavit of Medcalf, Exhibit 4, ¶ 8 & 12.

8. By way of example and not limitation, motor vehicle collections for July, 2015, distributed in August, 2015, totaled \$22,202,501.18 and were 98.9% of the total distributed in August, 2014, \$22,459,699.55. Using the method described in the Enevoldsen affidavit, Exhibit 3, Plaintiff school districts received in August, 2015 amounts ranging from 42.2% to 86.0% of the amount received in August, 2014. Exhibit 7, which is based on calculations using data displayed in Exhibit 5 as described by the Medcalf Affidavit, demonstrates how the OTC error played out the first twelve months since July, 2015. Exhibit 4, ¶¶7-8.

SUMMARY JUDGMENT STANDARD

A party may move for judgment in his favor where the depositions, admissions, answers to interrogatories and affidavits on file show that there is no substantial controversy as to any material fact. The adverse party may file affidavits or other materials in opposition to the motion. The affidavits which are filed by either party shall be made on personal knowledge, shall show that the affiant is competent to testify as to the matters stated therein and shall set forth facts that would be admissible in evidence. The court shall render judgment if it appears that there is no substantial controversy as to any material fact and that any party is entitled to judgment as a matter of law. If the court finds that there is no substantial controversy as to certain facts or issues, it shall make an order specifying the facts or issues which are not in controversy and direct that the action proceed for a determination of the other facts or issues. 12 O.S. 1971, Ch. 2, App. Rule 13.

Summary adjudication is proper when there is no substantial controversy as to any material fact, and when those undisputed facts would lead reasonable minds to but a single conclusion which would entitle a party to judgment as a matter of law, *Chase v. Young*, 1992 OK CIV APP 63, 831 P.2d 1014, *Testerman v. First Family Life Insurance Co.*, 1990 OK CIV APP 108, 808 P.2d 703, *Mengel v. Rosen*, 1987 OK 23, 735 P.2d 560, and when it serves to eliminate a useless

trial. *In the Matter of the Assessment of Real Property of Integris Realty Corp.*, 2002 OK 85, at ¶ 5, 58 P.3d at 203.

I. THE OTC HAS IMPROPERLY APPLIED 47 O. S. §1104.

The Plaintiffs, eight independent school districts in Oklahoma, seek to have the Court declare that the OTC has been improperly applying the statute regarding the apportionment of motor vehicle revenues to Plaintiff school districts, resulting in the underpayment of revenues to the Plaintiffs since its apportionment in August, 2015 of July, 2015 collections. The Affidavit of Jennelle Enevoldsen, Exhibit 3, admits facts showing that the Tax Commission has been misapplying the law. Plaintiffs further seek injunctive relief ordering OTC to properly apply the statute moving forward and to mitigate and correct the harm caused by the already committed improper application by basing future apportionments only on apportionments which were proper as should have been made under the statute.

The statute at issue in this matter is 47 O. S. § 1104, which provides for the apportionment of revenues collected under the Oklahoma Vehicle License and Registration Act, Title 47 O. S. §1-101 et seq., to various political subdivisions and to the State. Since July 1, 2015, the OTC has misapplied the statute, omitting two legally required steps in the apportionment of motor vehicle collections among school districts. As a result, Plaintiff school districts have not received their share of these revenues as required by law. This illegal application of the statute has deprived Plaintiff districts of funds to which they are entitled since July 1, 2015, and distorts the allocations they will receive in the future.

The statute governing the monthly allocation of these motor vehicle collections is 47 O.S. § 1104(B)(2), the pertinent part of which is as follows:

a. except as otherwise provided in this subparagraph, each district shall receive the same amount of funds as such district received from the taxes and fees provided in

this title in the corresponding month of the preceding year. Any district eligible for funds pursuant to the provisions of this section that was not eligible the preceding year shall receive an amount equal to the average daily attendance of the applicable year multiplied by the average daily attendance apportionment within such county for each appropriate month. For fiscal year 1995 and thereafter, any district which received less than twenty-five percent (25%) of the average apportionment of the monies made to school districts in this state based on average daily attendance in fiscal year 1995 shall receive an amount equal to the average daily attendance in the 1994-1995 school year multiplied by the average daily attendance apportionment within the county in which the district is located for each appropriate month, and

b. any funds *remaining unallocated* following the allocation provided in subparagraph a of this paragraph shall be apportioned to the various school districts so that each district shall *first* receive the *cumulative total of the monthly apportionments* for which it is otherwise eligible under subparagraph a of this paragraph and *then* an amount based upon the proportion that each district's average daily attendance bears to the total average daily attendance of those districts entitled to receive funds pursuant to this section as certified by the State Department of Education.

(Emphasis added).

Thus the statute prescribes a three step process for the monthly allocation of motor vehicle collections to school districts. **First**, Subparagraph (a) requires an allocation of the same amount of funds as the district received from motor vehicle collections in the corresponding month of the previous year (Step 1). **Second**, Subparagraph (b) *first* requires an additional allocation if there remain additional funds unallocated by Subparagraph (a), to provide school districts with enough revenue so the districts receive the *cumulative total of the monthly apportionments* they should have received under Subparagraph (a) (Step 2). **Third**, *then*, and only then, if there are still funds left unallocated after any cumulative shortfall has been made up, each district receives its proportional share of the remainder based upon the proportion its average daily attendance (ADA) bears to the total ADA of all districts entitled to receive funds, as certified by the State Department of Education (SDE) (Step 3).

Step 2 that brings the districts up to the cumulative total of monthly apportionments they would have received under Subparagraph (a) clearly contemplates allocations under Subparagraph (a) may sometimes fall short, and then the shortage would be made up later by operation of the first part of Subparagraph (b). In essence, for Step 2 there would be no shortfall in the cumulative total of monthly apportionments unless only a partial share of the total apportionment for the same month of the previous year had been apportioned in Step 1. It is not an all or nothing proposition as the OTC believes; it should proportionally apportion available revenue in Step 1 even if the amount is less than the same month of the previous year. Even if the OTC were right and it could not make a proportional apportionment in Step 1 of a shortfall month (and OTC is not correct in this), Step 2 found in 47 O.S. § 1104(B)(2)(b) requires available funding to go first toward making up the cumulative total of “apportionments” (plural, meaning more than one apportionment) that should have been received under Subparagraph (a), or as much of that shortfall as could be made up with existing funds, any remaining shortfall to be made up later. So in a shortfall month, a partial (and proportional) apportionment is required, whether in Steps 1 or 2. Then only after any such shortage is made up, may the OTC allocate any remainder according to the districts’ proportional share of the total ADA in Step 3.

Ms. Enevoldsen’s affidavit, Exhibit 3, ¶ 5, sets forth this very provision as the statutory directive regarding Motor Vehicle Collections. Then, as shown below, the same affidavit demonstrates how the Tax Commission disobeys this statutory directive.

Since July 1, 2015 in every month except September and December, 2015 and March 2016 (from which allocations were made to districts in October, January and April respectively), the monthly motor vehicle collections have been *less* than those of the corresponding month of the preceding year. See, Statement of Undisputed Facts, ¶ 4. In these ten under collection months,

the OTC has improperly apportioned available motor vehicle collections to school districts by completely skipping the first two of the three required statutory steps explained above. Instead, all amounts have been apportioned to school districts using only the third step, based on the proportion that the district's ADA bears to the total ADA of all districts under the provision of 47 O.S. § 1104(B)(2)(b). See Statement of Undisputed Facts, ¶5 and Enevoldsen affidavit, Exhibit 3, ¶ 7.

The OTC's rationale for this construction has been the elimination of the "hold harmless" provision which previously allowed the use of general fund revenue to make up the shortfall if the amount of motor vehicle collections was less than the corresponding month in the previous year. Enevoldsen Affidavit, Exhibit. 3, ¶¶ 2-5. However, elimination of the previous "hold harmless" language in no way changed the directive for how to apportion motor vehicle revenues in 47 O.S. § 1104(B)(2), which remains as it was before. Unaccountably and unjustifiably, the OTC has decided that, in an under collection month, since it cannot distribute the *full amount* required by the first statutory step, the same amount received the preceding year, it will distribute *no funds whatsoever* under Steps 1 and 2 found in Subparagraph (B)(2)(a) and (b), giving them no effect at all, and skip on to Step 3 in Subparagraph (B)(2)(b). Enevoldsen Affidavit, Exhibit 3, ¶ 7.

Further, for collections in September and December 2015, and March, 2016, which were *more than* the corresponding months of the preceding year, the OTC still skipped Step 2 in the statute, and distributed the excess funds according to the proportional ADA method found in Step 3, depriving Plaintiff districts the chance to make up the cumulative shortfall in monthly apportionments under Subparagraph (B)(2)(a). See, Enevoldsen affidavit, Exhibit 3, ¶ 6. As demonstrated by Exhibit 7, only for September 2015 collections should Step 3 have been used.

As a result of the OTC's misapplication of the statute, for the fiscal year 2016 and July 2016 of fiscal year 2017 the Plaintiff school districts were illegally deprived of allocations at least the amounts as supported by Exhibit 7 in the total losses line and Affidavit of Medcalf, Exhibit 4, ¶ 11, which collectively exceed \$2.9 million. While Plaintiff districts are not seeking to recoup these losses in this case, they want the situation remedied so they will get the proper amounts apportioned prospectively.

Moreover, these shortfalls prevent the Plaintiffs from receiving the amount of Foundation Program Income they are intended to receive from the Oklahoma State Department of Education (SDE) pursuant to Title 70 Section 18-200.1. This reduces their ability to provide educational services to their students and frustrates the legislative intent that the state's provision of Foundation Aid be allocated to districts in a manner that provides "as large a measure of equalization as possible among districts". 70 OS 18-101(9). Exhibit 6 and Affidavit of Medcalf, Exhibit 4, ¶ 6. Thus, the OTC's misapplication of the statute is not merely a dispute between the OTC and the Plaintiff districts, but harms the educational experience and prospects of children, creating a public interest injury as well.

Sound principles of statutory construction require that the Court determine that OTC has erred in its construction and determine that OTC should apportion motor vehicle revenues in the manner proposed by the Plaintiffs. The primary goal in reviewing a statute is to ascertain legislative intent, if possible, from a reading of the statutory language in its plain and ordinary meaning. *In re Initiative Petition No. 397, State Question No. 767*, 2014 OK 23, ¶ 14, 326 P.3d 496. This is so because the plain words of a statute are deemed to express legislative authorial intent in the absence of any ambiguity or conflict in language. *Id.* The plain and ordinary meaning of the only statute directly at issue in this case is that each district will receive each month in Step

1 a total amount that is close to the amount it received the same month of the preceding year and that any cumulative shortfall will be made up in Step 2 when funds are available. That result is consistent with the expressed intent of the Steps 1 and 2 set forth in subparagraph 1104(B)(2)(a) and (b) and with the expressed intent of 70 O.S. §18-200.1(D)(1)(b) that each school district is expected to receive close to the same amount of motor vehicle collections as “actually collected...during the preceding fiscal year”.

Thus, two statutes command that apportionments of motor vehicle collections be made based upon the amount collected and apportioned in the “preceding fiscal year.” These are 70 O.S. §18-200.1(D)(1)(b) in the school code with respect to the amount of motor vehicle collections (and other sources) that go into the Foundation Program Income for each district and 47 O.S. § 1104(B)(2), the subject of this lawsuit. What is more, in 70 OS 18-101(9) of the school code the Court will find the legislative intent that the state’s provision of Foundation Aid (a major part of “state aid”, the largest source of school funding) be allocated to districts in a manner that provides “as large a measure of equalization as possible among districts.” Taken together, these statutes express a legislative intention to base motor vehicle apportionments on the amount apportioned in the corresponding month of the previous year so that available funding is largely equalized among school districts.

The doctrine of *in pari materia* supports Plaintiffs’ reading of the law. “The Latin phrase “*in pari materia*” means ‘upon the same matter.’ This canon of construction allows statutes that are *in pari materia* to be construed together, so that inconsistencies in one may be resolved by examining another statute on the same subject matter.” *Mustain v. Grand River Dam Authority*, 2003 OK 43, ¶ 23, n. 44, 68 P.3d 991, 999. While there is no inconsistency between them, subparagraph B(2)(a) and the opening phrase of subparagraph B(2)(b) must be read in concert with

70 O. S. 18-101 et seq, and especially 18-200.1, as an integral part of the state aid formula and the stated intent that “[t]he system of public school support should provide for an equitable system of state and local sharing in the foundation program. The degree of local sharing should be based, as nearly as possible, on the true ability of the local district, so that each may contribute uniformly to the foundation program.” 70 O. S. 18-101. Simply stated, all of these statutes speaking to the same subject compel the conclusion that, as a part of equitable and equalized funding, the motor vehicle collections must be apportioned in the same amount apportioned in the corresponding month of the previous year, or as nearly so as possible. If there are insufficient collections in a particular month to fully fund subparagraph (B)(2)(a) then only the proportional method advocated by the Plaintiff districts gives effect to the intent expressed in both the statute at issue and the important provisions in Title 70 for Foundation Aid to school districts statewide.

Only when the intent of these first two steps are achieved should any motor vehicle revenue be apportioned by the Step 3 ADA method found in 47 O.S. § 1104(B)(2)(b). The only month since July 1, 2015 when Step 3 was necessary was when the September 2015 over collection, for distribution in October, exceeded the previous two months’ cumulative under collections.

The elimination of the former “hold harmless” provisions did not change Subparagraph (B)(2). While the elimination of the “hold harmless” language may have limited the total revenues available for apportionment to school districts as a whole, that reduction in possible funds did not change the method of apportioning the available revenues **among** the various school districts. Since the Legislature did not change the language providing for the apportionment **among** school districts, the Legislature stated no intent to change the apportionment method in the manner the OTC has changed it. In making that change, the OTC ignored the clearly stated intent of paragraph (B)(2) that school districts should first be made whole relative to not only the same month of the

preceding year in Steps 1 and 2, but also as to any cumulative deficit over previous months. Distributing as much as is available proportionately to school districts would give effect to that intent and treat all districts equally in the process. Equality of hardship and equality of hope of making up for that hardship when revenues improve is the only sensible way to give effect to the legislative intent. All the Plaintiff districts seek is a simple application of the plain language of the statute to give them the resources the Legislature intended that they get.

Moreover, distributing nothing pursuant to Step 1 in subparagraph B(2)(a) and Step 2 in Subparagraph B(2)(b) gives no effect to the Legislature's clearly stated intent, violating the rule of statutory construction that the Court must interpret legislation so as to give effect to every word and sentence rather than rendering some provisions nugatory. *Globe Life and Accident Insur. Co., v. Oklahoma Tax Commission*, 1996 OK 39 ¶ 15, 913 P.2d 1322, 1328. The Court should ascertain the intent all the various portions of the legislative enactments upon the particular subject, construing them together and giving them effect as a whole. *Independent School Dist. No. 89 v. Oklahoma City Federation of Teachers, Local 2309 of the American Federation of Teachers*, 1980 OK 89, ¶ 11, 612 P.2d 719, 721.

Further, skipping Step 1 and Step 2 produces an absurd result completely divorced from the legislative intent of stability in funding through the motor vehicle collections. The Court should avoid this absurd consequence of substantially different allocations for the Plaintiff districts by honoring the statute's three steps as it was written. *See, TRW/Reda Pump, v. Brewington*, 1992 OK 31, ¶ 5, 829 P.2d 15, 20 (interpretations should avoid absurd consequences). The Legislature sought to provide stability in funding year to year. It did so by providing, as nearly as possible, the same amounts as were provided in the corresponding month of the previous year, and making up the shortfall when money becomes available. The OTC admits that in these under collection

months "...some school districts, like Petitioner [the Sand Springs district in this context] received less money than received in the corresponding months of the previous year and other school districts received more money than received in the corresponding months of the previous year." Enevoldsen Affidavit, Exhibit 3, ¶ 10. Step 3, based on average daily attendance, was only to be employed in the rare instances that Steps 1 and 2 had been fully satisfied.

Defendants' privileging of Step 3 in Subparagraph B(2)(b) over Steps 1 and 2 makes no sense even in terms of that subparagraph's plain language. Subparagraph B(2)(b) begins with the requirement or condition "any funds remaining unallocated following the allocation provided in subparagraph a of this paragraph..." The plain meaning of this statement is that the only funds to be distributed by Step 3 in Subparagraph B(2)(b) are funds remaining unallocated after B(2)(a) is fully satisfied. Subparagraph B(2)(b) continues with the requirement that available funds "...shall be apportioned to the various school districts so that each district shall first receive the **cumulative total of the monthly apportionments** for which it is otherwise eligible under subparagraph a of this paragraph..." Again, the clear priority is satisfying Step 1 in Subparagraph B(2)(a) and Step 2 in Subparagraph B(2)(b) before any distribution is made pursuant to Step 3, the methodology set forth in B(2)(b), relying upon Average Daily Attendance to apportion the revenues. The Court must give effect to all three portions and steps of the statute, giving effect to the whole and not only a single part. *Independent School Dist. No. 89*, 1980 OK 89, ¶ 11, 612 P.2d at 721.

In effect, the Step 3 distribution pursuant to Subsection B(2)(b) is "gravy," to be enjoyed by districts only after they have received the cumulative total due them based on the apportionments of the corresponding month of the previous year in Steps 1 and 2. If there is a month when all the districts are caught up, and every district has received the same funding it received to that point in the previous year, and there is money left over, OTC can distribute the

gravy. This provision requires that only after all districts are made whole for the current month OTC is then to look at "...the cumulative total of the monthly apportionments for which it is otherwise eligible under subparagraph a..." to use the excess to backfill for any "subparagraph a" deficiencies. The definition of "cumulative" in the Random House Dictionary of the English Language, 1979 is: "1. increasing or growing by accumulation or successive additions; 2. formed by or resulting from accumulation or the addition of successive parts or elements; 3. of or pertaining to interest or dividends which, if not paid when due, become a prior claim or payment in the future." Under the plain meaning of "cumulative," any shortfalls in the *cumulative total of the monthly apportionments* that have increased by accumulation over the year should be paid up before any apportionment is made by the Step 3 ADA method. Moreover, the Court should note that the statutes speak about "apportionments" in the plural, not just a particular single "apportionment." This means the Step 2 apportionment is intended to correct shortfalls in "apportionments" made over multiple months.

Prior to amendments enacted in 2000 the statute provided for proportional payment in months of shortfall, but that that provision was repealed when the now-repealed "hold harmless" language was first added. Exhibit 10. Defendants may suggest that the Legislature thus abandoned any provision for proportional payment when monthly motor vehicle revenues fall short of those revenues in the corresponding month of the previous year. However, when the "hold harmless" provision came into effect there was no longer any need to deal with shortfalls, because general revenue made up shortages. So the better suggestion is that the earlier provision is a clear statement of legislative intent the last time under collections were possible.

In any event, the law for apportionment of motor vehicle revenues to school districts, which has undisputedly remained unchanged since July, 2015, effectively, if implicitly, requires the

Plaintiff districts get their proportional share of the motor vehicle revenue in months in which such revenue is *less* than that in the corresponding month because the Steps 1 and 2 require shortages to be made up as well as possible, and proportional treatment among districts based on the previous year's revenue must be the rule in the first two steps of the statute. Such proportional treatment is a practical requirement of the Foundation Aid Program, under which equity is the Plaintiff districts' due.

II. THE PLAINTIFFS DEFER ADDRESSING DEFENDANTS' DEFENSE URGING JOINDER OF ALL SCHOOL DISTRICTS IN THIS SUIT.

The Plaintiff districts recognize the OTC defendants have raised as a defense a claim that under 12 O.S. § 1653(A) all school districts should be joined as parties to this action. Answer, Exhibit 2, ¶ 11. Plaintiffs understand from conversations with Defendant's counsel that Defendants will soon present that defense to the Court by motion. Because the Defendants carry the burden on this defense, Plaintiffs have not addressed it in the present motion, but will respond in the normal course once Defendants have presented their defense to the Court.

CONCLUSION: THE FACTS ARE UNDISPUTED, AND THE COURTS SHOULD GRANT JUDGMENT AS A MATTER OF LAW.

The Tax Commission has concisely laid out how it administers 47 O.S. § 1104(B)(2) in months in which motor vehicle collections are *less* than they were in the corresponding month of the previous year. The parties to this case can present no dispute of fact about how the OTC has applied the statute. In short-fall months, the OTC skips Steps 1 and 2 in the statute, and goes directly and exclusively to Step 3, the Average Daily Attendance (ADA) method. Even in months in which *more* motor vehicle revenue is received than in the corresponding month of the previous year, the OTC skips Step 2 in the statute after making the Step 1 apportionments, and pours the

excess money into Step 3, the method based on ADA. This misapplication of the statute has prejudiced the Plaintiff districts, and will continue to do so.

The Court should declare the proper application of 47 O.S. § 1104(B)(2) requires following the three steps in the statute and as explained above. The Court should issue an injunction to require the OTC to apply the statute correctly for the Plaintiff districts. The Court should also order the OTC to re-compute the monthly allocations of the Plaintiff districts since July, 2015 to be what they should have been under a proper application of 47 O.S. § 1104(B)(2). Such re-computing will remedy prospective apportionments of motor vehicle revenues to the Plaintiffs. Without re-computing, the OTC will apportion to the Plaintiffs based upon incorrect and artificially low prior year apportionments which were reached because OTC erroneously applied the statute.

Respectfully submitted,



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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF MAILING

I hereby certify that on the 25th day of August, 2016, a true and correct copy of the foregoing instrument was mailed, postage paid, to:

Marjorie Welch
First Deputy General Counsel
Oklahoma Tax Commission
100 North Broadway Ave., Suite 1500
Oklahoma City, OK 73102-8601



Robert A. Nance





IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

INDEPENDENT SCHOOL DISTRICT No. 2,)
TULSA COUNTY, OKLAHOMA;)
INDEPENDENT SCHOOL DISTRICT No. 52,)
OKLAHOMA COUNTY, OKLAHOMA;)
INDEPENDENT SCHOOL DISTRICT No. 71,)
KAY COUNTY, OKLAHOMA;)
INDEPENDENT SCHOOL DISTRICT No 20,)
MUSKOGEE COUNTY, OKLAHOMA;)
INDEPENDENT SCHOOL DISTRICT No. 18,)
JACKSON COUNTY, OKLAHOMA,)
INDEPENDENT SCHOOL DISTRICT No. 14,)
OTTAWA COUNTY, OKLAHOMA;)
INDEPENDENT SCHOOL DISTRICT No. 105,)
BLAINE COUNTY, OKLAHOMA; and)
INDEPENDENT SCHOOL DISTRICT NO. 2,)
KIOWA COUNTY, OKLAHOMA,)

Plaintiffs,)

v.)

OKLAHOMA TAX COMMISSIONER, STEVE)
BURRAGE; OKLAHOMA TAX)
COMMISSIONER DAWN CASH; and)
OKLAHOMA TAX COMMISSIONER,)
THOMAS E. KEMP, JR.,)

Defendants.)

FILED IN DISTRICT COURT
OKLAHOMA COUNTY

DEC - 9 2016

RICK WARREN
COURT CLERK

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Case No. CV-2016-1249

JOURNAL ENTRY OF DECLARATORY JUDGMENT AND INJUNCTION

Now on this 14th day of October, 2016, this matter comes on for consideration of Motion to Dismiss for Failure to Join Interested Parties, Oklahoma Tax Commissioner Steve Burrage, Oklahoma Tax Commissioner Dawn Cash, and Oklahoma Tax Commissioner Thomas E. Kemp, Jr. (Defendants collectively referred to hereinafter as "OTC") and Plaintiffs' Motion for Summary Judgment. Both motions are at issue. Plaintiffs appear through Robert A. Nance and Gary Watts and OTC appears through Marjorie Welch and Alan R. Leizear. Having reviewed the

motions, briefs, and attached material, and having heard the argument of counsel, the Court finds and orders as follows:

OTC's Motion to Dismiss for Failure to Join Interested Parties is denied based upon authority presented by Plaintiffs, and particularly because this case presents a matter of public interest in the construction of 47 O.S. § 1104 and the apportionment of motor vehicle collection to school districts. Plaintiffs need not join other school districts as parties in this case.

The Plaintiffs' Motion for Summary Judgment is granted as follows. Pursuant to 12 O.S. § 1651 the Court finds an actual controversy exists between Plaintiffs and OTC regarding the construction of 47 O.S. § 1104. Therefore, the Court will determine the proper construction of that statute as it pertains to the apportionment of motor vehicle collections to all school districts in Oklahoma and enters this declaratory judgment accordingly. The Court finds that Plaintiffs presented the correct construction of 47 O.S. § 1104(B)(2) as a three step process or set of priorities for the apportionment of motor vehicle collections which shall be applied to all school districts.

The Plaintiffs' Motion for Summary Judgment requesting relief for Plaintiffs **only** is also granted. OTC shall recalculate the amount of motor vehicle collections Plaintiffs would have received for July, 2015, apportioned in August, 2015, and all subsequent months had motor vehicle collections been apportioned in the manner set forth herein. This Order specifically does not require or provide for the recalculation of motor vehicle collections for July, 2015, apportioned in August, 2015, and all subsequent months for any school district other than Plaintiffs.

First, pursuant to 47 O.S. § 1104(B)(2)(a) the OTC must apportion to school districts the "same amount of funds as such district received from the taxes and fees provided in [Title 47] in the corresponding month of the preceding year." If the total motor vehicle collections for a given month equal or exceed the motor vehicle collections apportioned to non-Plaintiff school districts plus the recalculated motor vehicle collections for Plaintiffs for the corresponding month of the

previous year, OTC shall apportion to school districts the same amount either received, or as recalculated, in the corresponding month of the preceding year.

If the total motor vehicle collections for a given month are *equal to* the actual motor vehicle collections apportioned for the corresponding month of the previous year but are less than the motor vehicle collections apportioned to non-Plaintiff school districts plus the recalculated motor vehicle collections for Plaintiffs, OTC shall determine the percentage the current month's motor vehicle collections bears to the total motor vehicle collections plus the recalculated motor vehicle collections for the corresponding month in the previous year. OTC shall apportion to each school district the percentage of its previous year's apportionment or recalculated apportionment.

If the motor vehicle collections for a given month are *less* than in the corresponding month of the preceding year and as recalculated for the Plaintiff districts only pursuant to this order, the OTC shall determine the percentage of the current month's motor vehicle collections bears to the total motor vehicle collections plus the recalculated motor vehicle collections for the corresponding month in the previous year. OTC shall apportion to each school district the percentage of its previous year's apportionment or recalculated apportionment.

If motor vehicle collections in any month exceed the motor vehicle collections plus the amount of recalculated motor vehicle collections for Plaintiffs in the corresponding month of the preceding year, there will be funds remaining unallocated following the allocation provided for pursuant to 47 O.S. § 1104(B)(2)(a). Pursuant to 47 O.S. § 1104(B)(2)(b), any funds in a given month which remain unallocated following the allocation provided for in 47 O.S. § 1104(B)(2)(a), "shall be apportioned to the various school districts so that each district shall first receive the cumulative total of the monthly apportionments for which it is otherwise eligible under" 47 O.S. § 1104(B)(2)(b). In determining this apportionment, OTC shall first calculate the "cumulative total" referred to by totaling the monthly motor vehicle apportionments to date for each district in the

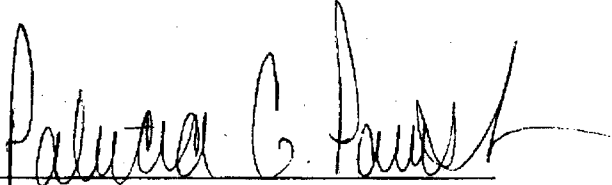
current fiscal year and subtracting from that sum the total motor vehicle collections apportioned to each non-Plaintiff school district, or the recalculated motor vehicle collections for each Plaintiff school district, for the corresponding months of the previous year. Only those school districts for which the difference, being the cumulative total referred to, is negative (a shortfall) shall receive an apportionment under this step. Each eligible school district experiencing a shortfall shall receive as that school district's apportionment from the funds available, the proportion of its shortfall to the cumulative totals of shortfalls for all eligible shortfall school districts.

If motor vehicle collections remain in any given month after apportionment has been made as required in 47 O.S. § 1104(B)(2)(a) and as required to apportion the cumulative total of monthly apportionments for which districts are otherwise eligible under 47 O.S. § 1104(B)(2)(b) then, and only then, OTC shall apportion any remaining funds to eligible districts in an "amount based upon the proportion that each school districts' average daily attendance bears to the total average daily attendance of those school districts entitled to receive funds pursuant to [47 O.S. § 1104] as certified by the State Department of Education"


Because this is a matter of public interest, OTC shall apply this construction prospectively to all school districts eligible to receive apportionment of motor vehicle collections, and not just to the eight Plaintiff districts in this case.

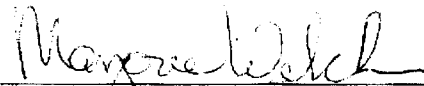
Further, for the eight Plaintiff districts, and not for any other school districts, OTC shall prospectively use as "preceding year" figures the sums that OTC would have apportioned to the Plaintiff districts for the period beginning with the August, 2015 apportionment of July, 2015 motor vehicle collections until the month in which this order is entered, had the OTC applied the statute as ordered herein. OTC shall treat the revised amounts so arrived at constructively as the "taxes and fees provided for in [Title 47] in the corresponding month of the preceding year" within the meaning of 47 O.S. § 1104(B)(2)(a) for future apportionments.

Judgment is entered for Plaintiffs accordingly.


Honorable Patricia Parrish
Judge of the District Court

APPROVED AS TO FORM


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Plaintiffs' Exhibit 4 (Corrected by Defendants)

Actual Revenue*

Ponca City	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	Totals
Chargeables (except MVC)**	5,972,171	5,965,341	6,098,203	6,131,032	6,273,591	6,305,391	36,745,729
Actual Motor Vehicle (MVC)	2,140,885	1,902,400	1,852,973	1,879,768	2,199,535	1,858,895	11,834,456
Actual Foundation Aid	4,651,726	4,692,814	4,991,673	5,967,876	5,834,667	4,512,563	30,651,319
Actual Revenue	12,764,782	12,560,555	12,942,849	13,978,676	14,307,793	12,676,850	79,231,504
Foundation Program	13,203,156	12,959,106	12,914,943	13,988,606	14,155,409	13,018,435	80,239,655
Correct MVC	2,573,330	1,930,002	1,852,973	1,844,380	1,774,875	1,858,895	11,834,456
MVC Gain/Loss	(432,445)	(27,602)	-	(35,388)	(424,659)	-	(0)
MVC Gain/Loss (cumulative)	(432,445)	(460,048)	(460,048)	(424,659)	(0)	(0)	(1,777,200)
Correct Foundation Aid	4,651,726	4,260,368	4,964,071	5,967,876	5,870,056	4,937,222	30,651,319
Foundation Aid Gain/Loss	-	-	-	-	(35,388)	(424,659)	(0)
Foundation Aid G/L (cumulative)	-	-	-	-	(0)	(0)	(0)
Correct Actual Revenue	13,197,228	12,155,712	12,915,247	13,943,287	13,918,522	13,101,509	79,231,504
Revenue Gain/Loss	(32,445)	(404,843)	(27,602)	(35,388)	(389,271)	(424,659)	(0)
Revenue G/L (cumulative)	(32,445)	(27,602)	0	(35,388)	(424,659)	(0)	(0)

*As Plaintiffs note at the bottom of their Exhibit 4, the "Actual Revenue" data plotted in Exhibit 4 differs from Foundation Aid Calculations (Plaintiffs' Exhibit 5), because Foundation Aid uses Chargeable Income (County 4 Mill, School Land, Gross Production, MVC, and REA Tax) from the previous year. Although Plaintiffs' choice to deviate from the Foundation Aid Formula here adds an unnecessary layer of confusion, the Board uses the same data for demonstrative purposes.

** The Rows for Ad Valorem, County 4 Mill, School Land, Gross Production, and REA Tax have been totaled in the "Chargeables (except MVC)" row. These values are not in dispute and only included to support total revenue calculations.



AM



IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

INDEPENDENT SCHOOL DISTRICT No. 2,)
TULSA COUNTY, OKLAHOMA;)
INDEPENDENT SCHOOL DISTRICT No. 52,)
OKLAHOMA COUNTY, OKLAHOMA;)
INDEPENDENT SCHOOL DISTRICT No. 71,)
KAY COUNTY, OKLAHOMA;)
INDEPENDENT SCHOOL DISTRICT No 20,)
MUSKOGEE COUNTY, OKLAHOMA;)
INDEPENDENT SCHOOL DISTRICT No. 18,)
JACKSON COUNTY, OKLAHOMA,)
INDEPENDENT SCHOOL DISTRICT No. 14,)
OTTAWA COUNTY, OKLAHOMA;)
INDEPENDENT SCHOOL DISTRICT No. 105,)
BLAINE COUNTY, OKLAHOMA; and)
INDEPENDENT SCHOOL DISTRICT NO. 2,)
KIOWA COUNTY, OKLAHOMA,)

Plaintiffs,

v.

OKLAHOMA TAX COMMISSIONER, STEVE)
BURRAGE; OKLAHOMA TAX)
COMMISSIONER DAWN CASH; and)
OKLAHOMA TAX COMMISSIONER,)
THOMAS E. KEMP, JR.,)

Defendants.

Case No. CV-2016-1249

FILED IN DISTRICT COURT
OKLAHOMA COUNTY
SEP 11 2018
RICK WARREN
CLERK
34

**MOTION FOR ORDER TO SHOW CAUSE WHY SUMMARY JUDGMENT
SHOULD NOT BE GRANTED TO AWARD FURTHER RELIEF
TO REDRESS ERRONEOUS PAYMENTS**

The Plaintiffs, Independent School District No. 2, Tulsa County, Oklahoma, Independent School District No. 52, Oklahoma County, Oklahoma, Independent School District No. 71, Kay County, Oklahoma, Independent School District No. 20, Muskogee County, Oklahoma, Independent School District No. 18, Jackson County, Oklahoma, Independent School District No. 14, Ottawa County, Oklahoma, Independent School District No. 105, Blaine County, Oklahoma, and Independent School District No. 2, Kiowa County, Oklahoma ("School Districts") hereby

move the Court pursuant to 12 O.S. § 1655 to grant further relief to enforce the declaratory judgment and injunction ordered by this Court and modified by the order of the Court of Civil Appeals (COCA) in its Opinion issued February 9, 2018 **Exhibit 1** and directed to this Court by Mandate **Exhibit 2** issued June 20, 2018.

INTRODUCTION

It is now beyond dispute that the Oklahoma Tax Commission (OTC) misapplied the 2015 amendment to 47 O.S. § 1104(B) (2) (a) and (b) to the prejudice of Plaintiff school districts, and other school districts as well. The exact dimensions of that prejudice are now beyond dispute as well. In compliance with the directive of the Court of Civil Appeals, the OTC has recalculated “the amount that should have been apportioned to the school districts pursuant to this [correct] method and base the apportionment of motor vehicle collections on the recalculated amounts for the July 1, 2016 to August 25, 2017 period.” COCA Substituted Opinion of February 9, 2018, ¶ 36. Counsel for Plaintiffs have examined the OTC’s calculations, had the opportunity to comment on them, and are now satisfied as to the correctness of the revised calculations, as shown on a spreadsheet attached hereto as **Exhibits 4-1, 4-2 and 4-3**. Exhibit 4 itself is the email transmitting the spreadsheet. Thus, both the law and the facts are beyond dispute, and the Plaintiffs are entitled to further relief pursuant to 12 O.S. § 1655 to require the OTC to show cause why summary judgment should not be ordered to redress the erroneous apportionments of the period July 1, 2016 through August 25, 2017 as described herein resulting in incorrect payment amounts to school districts statewide over the thirteen months from August, 2016 through August, 2017.

The total amount incorrectly paid, as shown by **Exhibit 4-2**, was \$22,797,480.81. This amount was overpaid to 146 “growing” school districts (as described by the OTC) resulting in

underpayment by the same amount over the thirteen-month period to 271 “shrinking” school districts, including the eight plaintiff districts.

The Court should order the OTC to show cause why it should not correct its error by paying to each of the 271 school districts prejudiced by the OTC’s erroneous interpretation of the statute the amount it was underpaid as shown on Exhibits 4-1 and 4-3 during that thirteen-month period by making pro rata reduction of the future payments to the 146 districts that were overpaid during the same thirteen month period. At the conclusion of this process, both “growing” and “shrinking” school districts will have been paid the total amount of motor vehicle collections they should have been paid had the OTC correctly interpreted the statute since this action for declaratory and injunctive relief was first filed.

Only by redressing the harm caused by the OTC’s misapplication of the statute in this fashion can this Court give full effect to the order of the COCA to base apportionment of motor vehicle collections on the recalculated amounts for the July 1, 2016 to August 25, 2017 time period. The COCA issued that order on November 9, 2017, less than *three months after the expiration of the time period July 1, 2016 to August 25, 2017*. The COCA could only have meant to order adjusting payments in the future.

STATEMENT OF RELEVANT FACTS

Statement of material facts not in dispute.

1. Plaintiffs and Defendant OTC do not dispute the correctness of the figures shown on the OTC’s spreadsheet and email transmitting it, **Exhibit 4** hereto, as showing the amounts each school district in Oklahoma was either overpaid or underpaid motor vehicle revenues as a result of the OTC’s erroneous interpretation of 47 O.S. § 1104 during the period July 1, 2016 through August 25, 2017. See Exhibits 4-1, 4-2, and 4-3 for the details of amounts overpaid (Exhibit 4-2) and underpaid (Exhibits 4-1 and 4-3).
2. Between January, 2017 and April, 2017 the OTC corrected its error in apportionment of motor vehicle revenue to school districts due to an error in

reporting from an agent which overstated January collections and understated February collections. The reporting error resulted in overpayments in February and March to 192 school districts in the amount of \$211,401.89 that were offset by underpayments of the same amount to the remaining 226 school districts. To correct the \$211,401.89 error, the OTC, after determining the April apportionment for each district based on March collections, reduced the April payment amounts for the 192 districts that had been overpaid collectively by \$211,401.89, and increased the April payment amounts to the 226 districts that had been underpaid collectively by the same amount. As a result all districts received their correct payments total for the payment months of February, March and April, added together, based on the OTC's determination of the apportionments for January, February and March motor vehicle collections. The OTC made this correction on its own authority and initiative. See emails discussing this correction, Exhibits 5-1, 5-2, and the Exhibit 6, the spreadsheet supporting the corrections which was attached to Exhibit 5-2.

This Court determined in the Order of the Court, **Exhibit 3**, that the Oklahoma Tax Commission erroneously apportioned monthly distributions of motor vehicle collections among school districts from July, 2015 and for all subsequent months, resulting in the underpayment of motor vehicle revenues to some school districts and the overpayment of motor vehicle revenues to other school districts. The Court of Civil Appeals affirmed this determination. On June 15, 2016, understanding that OTC had distributed the motor vehicle revenues collected in fiscal year 2016 and could not simply pay to the Plaintiff School Districts the amount that OTC had shorted them, the Plaintiffs filed their Petition for Declaratory and Injunctive Relief, asking that the Court construe the statute and enter injunctive relief requiring that OTC correctly apportion the motor vehicle revenues going forward. As stated by the COCA:

² The plaintiffs' petition was filed on June 15, 2016, before the start of the 2017 fiscal year. The injunctive relief that the plaintiffs sought could, and in this case did, affect how the funds are distributed in fiscal year 2017. The Tax Commission was on notice that might be a result of this litigation and, therefore, was in apposition to avoid "paying any money back" wrongly distributed in fiscal year 2017.

In 2017, the Legislature amended the statute regarding apportionment of motor vehicle revenues so that the disputed language no longer applied after August 25, 2017. This effectively limited the period of injunctive relief to July, 2016 through August 25, 2017, representing thirteen monthly apportionments to school districts. The COCA's order, as reissued (with fiscal year corrections noted)¹, states:

The Tax Commission shall recalculate the amount of motor vehicle collections that all eligible school districts should have received for fiscal year 2016 and base future apportionment of funds on that amount consistent with the interpretation of the 2015 version of section 1104 in this Opinion. This method should govern until the effective date of the 2017 amendment. The plaintiffs do not seek, and we do not order, redistribution of motor vehicle collections received by the school districts in fiscal year 2016....The Tax Commission shall recalculate the amount that should have been apportioned to the school districts pursuant to this method and base the apportionment of motor vehicle collections on the recalculated amounts for the July 1, 2016 to August 25, 2017 time period.

The OTC, in compliance with the order, has completed its recalculations for the apportionment of motor vehicle collections it received from July, 2016 through July, 2017 and incorrectly paid out to school districts in thirteen monthly distributions from August, 2016 through August, 2017. These numbers were transmitted to Plaintiffs' counsel in an email, Exhibit 4 hereto, which had a four-tab spreadsheet attached. Exhibit 4-1, the first tab of the spreadsheet transmitted to Plaintiffs' counsel by the Tax Commission, actually states of the amounts shown thereon "[t]hese are the totals the plaintiffs will receive from the judgement." Similarly, the Tax Commission states of Exhibit 4-2, the second tab of that spreadsheet "[t]hese are the totals the growing schools will have taken away because of the judgement." Next, tab 3 of that spreadsheet,

¹ The 2016 dates in the following quotation have been changed from 2015 to conform to fiscal year convention adopted by the COCA and in accord with defendants' footnote at page 5 of the Petition for Certiorari.

Exhibit 4-3, “[t]hese are the totals the shrinking schools will receive because of the judgement. This does not include the plaintiff schools.” So the districts and amounts they were underpaid are found on Exhibit 4-1 (Plaintiff districts) and Exhibit 4-3 (non-Plaintiff districts). The total underpaid the districts listed on Exhibits 4-1 and 4-3 equals the total overpaid the “growing” districts found on Exhibit 4-2. Tab 4, Exhibit 4-4, consists of some notes of the OTC discussing how long it might take to recoup from some districts sums overpaid to them.

The Tax commission has recalculated the amounts overpaid or underpaid to each district, giving the Court an authoritative basis to grant equitable relief. The Plaintiffs accept the accuracy of the OTC’s recalculations in the spreadsheet attached to Ms. Welch’s email, **Exhibit 4**, which show that its failure to properly apply the statute resulted in overpayments to 146 school districts totaling \$22,797,480.81 which was offset by underpayments to 271 school districts in the same amount, \$3,961,269.76 of which were underpayments to the eight Plaintiff school districts. **Exhibit 4-2**, “Growing Schools” and **Exhibit 4-1** “Plaintiff Schools.”

Plaintiffs have sought to work with the OTC correct this egregious error by adjusting motor vehicle collections payments to school districts going forward, i.e. reducing future monthly payments to the 146 school districts that were overpaid \$22,797,480.81 and redirecting the reduced amounts to the 271 school districts that were underpaid, including the \$3,961,269.76 owed to the Plaintiffs. **Exhibit 4-1** “Plaintiff Schools” and **Exhibit 4-3** “Shrinking Schools.” The OTC’s own calculations show this can be done by spreading such correcting payments over as few as eight future months. **Exhibit 4-4** “Recoup notes.” However, Plaintiffs are willing to allow fourteen months to recover the funds wrongfully deprived them. The OTC has refused this request for cooperation without explanation, despite the fact that recently it has unilaterally corrected an error in the same manner.

The OTC has on its own initiative reduced current payments to districts it has overpaid to correct an erroneous underpayment of other districts in an unrelated situation.

While the appeal in this case was pending, the OTC made a mistake in how it attributed motor vehicle collections to school districts, discovered its error, and corrected that error on its own initiative by the same means Plaintiffs advocate now. As counsel for the OTC explained it, "January [2016] collections apportioned in February contained a significant overstatement of revenue due to an error in reporting from an agent." **Exhibit 5-1**. As shown by **Exhibits 5-1, 5-2, and 6**, \$2,115,200.93 in collections were erroneously attributed to January, 2017 motor vehicle collections instead of the following correct collection month February, 2017. This overstatement of January collections and understatement of February collections resulted in overpayments to 192 school districts totaling \$211,401.89 and underpayments by the same total to 226 school districts in February and March of 2017. Upon recognizing the error, the OTC made the necessary correction. The OTC determined the apportionments for March, 2017 collections. The OTC then paid a reduced amount for the April, 2017 payments to the 192 school districts and paid that additional amount to the 226 school districts which were underpaid the previous two months. Through this vehicle, the OTC corrected the \$211,401.89 error and ensured that the school districts received the proper funding. There can be no principled distinction between correcting the error caused by overstatement of revenue by an agent and correcting the error in the present case. Only the size of the error and the corresponding correction differ.

ARGUMENTS AND AUTHORITIES

It is well established that the Court has authority under the Declaratory Judgment Act to grant further relief necessary and proper following a declaration of rights.

The Declaratory Judgment Act provides for granting of further relief after, as in this case, a statute had been properly construed by the Court:

12 O.S. § 1655 - Additional Relief after Determination of Rights or Status

Further relief based upon a determination of rights, status, or other legal relations may be granted whenever such relief becomes necessary and proper after the determination has been made. Application may be made by petition to any court having jurisdiction for an order directed to any party or parties whose rights have been determined to *show cause* why the further relief should not be granted forthwith, upon reasonable notice prescribed by the court in its order. (Emphasis added)

This Court, having exercised its jurisdiction in the first instance to construe 47 O.S. Section 1104 and to order injunctive relief, certainly has authority to grant further and complete injunctive relief to restore the Plaintiff districts to the financial condition they should have had absent the OTC's legal error. The OTC should be required to show cause why such relief should not be granted as provided for in 12 O.S. § 1655, especially in light of the fact that Plaintiffs and Defendant agree on the amounts of overpayments or underpayments to each school district in the state.

Declaratory relief is by nature remedial and the court has broad discretion to fashion both legal and equitable relief, including "further relief" when it is necessary and proper. *State ex rel. Oklahoma Firefighters Pension and Retirement System v. City of Spencer*, 2009 OK 73, ¶ 15, 237 P.3d 125. The court may grant such relief as equity dictates, and as is warranted by the proof, and the court has wide discretion in determining what relief is proper and in prescribing the time within which such relief should become effective. *Torbett v. International Typographical Union*, 1975 OK CIV APP 31, ¶ 14, 536 P.2d 1332. If consequential or incidental relief is properly alleged and sought, the court may, in a proper case, accord either declaratory, executory, or coercive relief whenever the relief becomes necessary to effectuate the declaratory judgment. *Shadid v. Oklahoma Alcoholic Beverage Control Board*, 1982 OK 3, ¶ 8, 639 P.2d 1239. In an appropriate case where there is no question of material fact remaining, a court may issue summary judgment for damages as "further relief" pursuant to a prior declaratory judgment. *L&I Exploration Corp. v. Chesapeake ORC, LLC*, 2008 OK CIV App 34, ¶¶ 11, 19, 181 P.3d 746. Such "further relief"

is ancillary to the declaratory relief and may be sought in the same proceeding or in a later proceeding if arising from issues resolved by the prior declaratory judgment. *Id.* ¶ 14. Thus, the Court has ample authority to establish the timing of payment adjustments based on current apportionments, correctly calculated, from future motor vehicle revenues to both “growing” districts (payment reductions) and “shrinking” districts (payment increases) in order to redress the OTC’s error. Further, the Court may use summary judgment to do so when, as here, there is no genuine question of material fact about the amounts of revenue to be adjusted by future payment reductions to “growing” districts and future payment increases to “shrinking” districts.

District Court, acting as a Court of Equity, can fashion a remedy to correct the harm done by OTC.

OTC apparently believes that there is no remedy for OTC’s wrong in paying some school districts too much money and paying others too little money. OTC essentially advises the school districts which suffered this harm to move forward without a remedy. However, School Districts sought equity from the District Court and COCA had authority to fashion a remedy to do equity: “As with any equity case, the nature of the violation determines the scope of the remedy. In default by the [Defendants] of their obligation to proffer acceptable remedies, a district court has broad power to fashion a remedy that will assure a [remedy].” *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1, 16, 91 S. Ct. 1267, 28 L. Ed. 2d 554. “Traditionally, equity has been characterized by a practical flexibility in shaping its remedies and by a facility for adjusting and reconciling public and private needs.” *Brown v. Board of Education*, 349 U.S. 294, 299-300 (1955). Once invoked in a proper proceeding, equity will administer complete relief on all issues formed by the evidence. *Clark v. Edens*, 2011 OK 28, ¶ 5, 254 P.3d 672, 675. Equity treats as done what ought to be done. *Owens v. Continental Supply Co.*, 71 F.2d 862, 863 (10th Cir. 1934). Plaintiff districts, and over 260 more school districts, had no role in the erroneous interpretation

of the statute or the misallocation of revenue. These districts ought to be made whole for the OTC's error and the Court should order the appropriate relief Plaintiffs seek, unless the OTC can show cause why such relief should not be ordered. Moreover, Article 2 § 6 of the Oklahoma Constitution affords a remedy for every wrong and may be employed to secure an equitable remedy. *Pioneer Tel. & Tel. Co. v. State*, 1914 OK 27, ¶¶ 22-23, 138 P. 1033. To suggest the Courts cannot correct a financially prejudicial violation of the law by prospective order is to ignore major principles of equity and our own Constitution.

School Districts sought to present a manner in which injunctive relief could remedy the harm done by OTC's errors without requiring that any school district be asked to return the overpayments—that is, paying out of pocket the amount they were already overpaid. Instead, Plaintiffs propose, and the Court should order, the amounts overpaid should be offset from *future* motor vehicle revenues for the benefit of those districts, like Plaintiffs, that were underpaid. School Districts have consistently presented their claim for declaratory and injunctive relief as being based on the financial harm caused by the Defendants' wrongful construction of the 2015 version of the statute at issue, 47 O.S. § 1104. That harm occurred exclusively between the dates of July 1, 2015, being the effective date of that version of the statute, and August 25, 2017, being the effective date of the subsequent amendment. The COCA's order to recalculate and determine the correct apportionments during that time period does not order "redistribution of motor vehicle collections received by the school districts in fiscal year 2016," but by implication orders the adjustment of future payments to accomplish "...the apportionment of motor vehicle collections on the recalculated amounts for the July 1, 2016 to August 25, 2017 time period."

The terms "apportion" and "redistribute" each can have more than one contextual meaning. As used by the statute the term "apportion" refers both to the mathematical calculation of each

district's share of the monthly available amounts and to the act of paying the determined amounts to the districts. Similarly, "redistribution" may refer to taking back amounts already overpaid to some districts and then paying those amounts back out to other districts that had been underpaid, or it may refer to a process of recalculating the amounts districts should have received and making adjustments through *future payments*. For clarity in specifying the relief requested, we shall use the term "apportion" to refer only to the mathematical calculation of each district's statutory share of the monthly available amount and "pay" or "payment" to refer to the monthly amount each district would receive going forward to correct the OTC's error as determined by the COCA.

Clearly the context of the COCA order means that the differences between the recalculated past monthly apportionments and the amounts wrongly paid for those same months should be applied to reduce *future payments* to the over-paid districts to offset the excess payments they previously received and to increase future payments to the under-paid districts to offset the amounts they were shorted. Thus, until future payments, adjusted from correctly calculated monthly apportionments under current law, of motor vehicle collections restore all districts to the recalculated totals they should have received, these adjusted payments should be made in an orderly fashion.

The Tax Commission, having made the required recalculations and determining the amounts of overpayments and underpayments it has made in error to school districts from motor vehicle revenues collected July, 2016 through July, 2017, should follow its established practice and adjust future payments accordingly to correct for the errors made. Such adjustments will be made from the starting point of apportionment calculations based on the 2017 amended version of section 1104. Adjusting the future amounts districts will receive, whether pursuant to the COCA

Order or established Tax Commission practice, as deviations from the amounts correctly calculated gives effect to the amended statute and an effective remedy for the Plaintiffs.

CONCLUSION

The law governing this case has been decided by this Court, as modified by the COCA. There is no genuine question of material fact about the extent of the improper benefit to some districts and improper deprivation to other districts, including Plaintiffs. Plaintiffs are entitled to summary judgment on the issue of further relief. Therefore, the District Court should order the Oklahoma Tax Commission to correct its \$22,797,480.81 error by adjusting future monthly motor vehicle collections payments to school districts so that payments to districts that were erroneously overpaid are reduced by the amounts of the overpayments they received, and payments to districts that were erroneously underpaid are increased by the amounts of the underpayments. Such adjustments shall be made to amounts first correctly apportioned among the school districts according to the current law for the distribution of such revenue from the monthly revenue actually collected for payment to school districts.

Respectfully submitted,



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CERTIFICATE OF MAILING

I hereby certify that on the 11th day of September, 2018, a true and correct copy of the foregoing instrument was mailed, postage paid, to:

Marjorie Welch, First Deputy General Counsel
Elizabeth Field, Deputy General Counsel
Lee Pugh, General Counsel
Oklahoma Tax Commission
100 North Broadway Ave., Suite 1500
Oklahoma City, OK 73102-8601



Robert A. Nance

EXHIBIT 1

EXHIBIT 1

15



ORIGINAL

SUBSTITUTE OPINION AFTER REHEARING
THE COURT'S PRIOR OPINION HAVING BEEN WITHDRAWN

THIS OPINION HAS BEEN RELEASED FOR PUBLICATION BY ORDER OF
THE COURT OF CIVIL APPEALS

IN THE COURT OF CIVIL APPEALS OF THE STATE OF OKLAHOMA

DIVISION II

INDEPENDENT SCHOOL DISTRICT)
 NO. 2, TULSA COUNTY,)
 OKLAHOMA; INDEPENDENT)
 SCHOOL DISTRICT NO. 52,)
 OKLAHOMA COUNTY, OKLAHOMA;))
 INDEPENDENT SCHOOL DISTRICT)
 NO. 71, KAY COUNTY, OKLAHOMA;))
 INDEPENDENT SCHOOL DISTRICT)
 NO. 20, MUSKOGEE COUNTY,)
 OKLAHOMA; INDEPENDENT)
 SCHOOL DISTRICT NO. 18,)
 JACKSON COUNTY, OKLAHOMA;)
 INDEPENDENT SCHOOL DISTRICT)
 NO. 14, OTTAWA COUNTY,)
 OKLAHOMA; INDEPENDENT)
 SCHOOL DISTRICT NO. 105, BLAINE)
 COUNTY, OKLAHOMA; and)
 INDEPENDENT SCHOOL DISTRICT)
 NO. 2, KIOWA COUNTY,)
 OKLAHOMA,)
)
 Plaintiffs/Appellees,)
)
 vs.)
)
 OKLAHOMA TAX COMMISSIONER,)
 STEVE BURRAGE; OKLAHOMA TAX)
 COMMISSIONER, DAWN CASH and)
 OKLAHOMA TAX COMMISSIONER,)
 THOMAS E. KEMP, JR.,)

FILED
COURT OF CIVIL APPEALS
STATE OF OKLAHOMA
FEB - 9 2018

Rec'd (date)	2-9-18
Posted	<i>[Signature]</i>
Mailed	<i>[Signature]</i>
Distrib	<i>[Signature]</i>
Publish	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no

Case No. 115,678

Defendants/Appellants.)

APPEAL FROM THE DISTRICT COURT OF
OKLAHOMA COUNTY, OKLAHOMA

HONORABLE PATRICIA G. PARRISH, TRIAL JUDGE

AFFIRMED AS MODIFIED

Gary Watts
Tulsa, Oklahoma

Stephanie L. Theban
RGGS, ABNEY, NEAL, TURPEN,
ORBISON & LEWIS, P.C.
Tulsa, Oklahoma

and

Robert A. Nance
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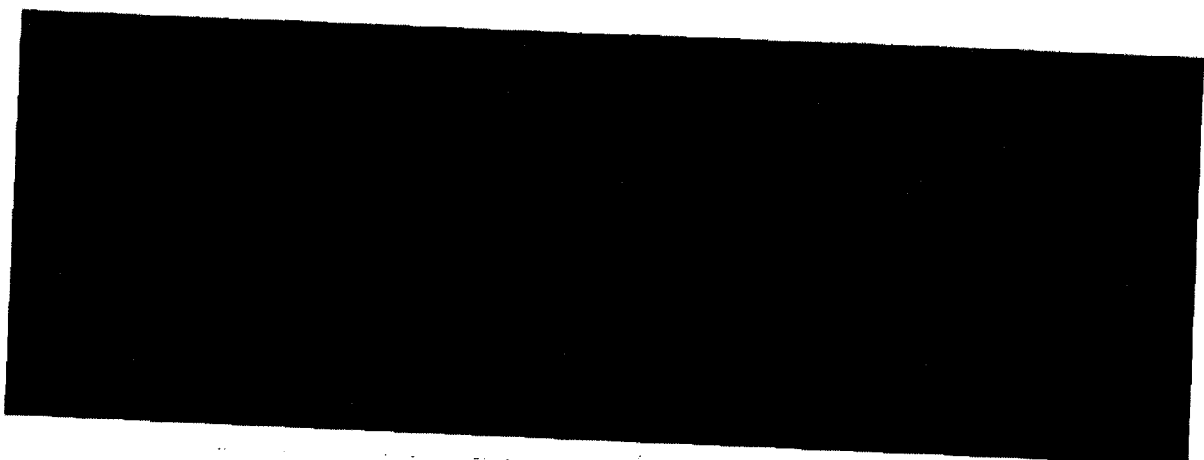
For Plaintiffs/Appellees

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Oklahoma City, Oklahoma

For Defendants/Appellants

OPINION ON REHEARING BY JOHN F. FISCHER, PRESIDING JUDGE:

¶1 Steve Burrage, Dawn Cash and Thomas E. Kemp, Jr., as the Commissioners of the Oklahoma Tax Commission (Tax Commission) appeal the district court's December 9, 2016 Journal Entry of Declaratory Judgment and Injunction entered



in favor of eight Oklahoma Independent School Districts. The Tax Commission also appeals the denial of its motion to dismiss, based on the plaintiffs' failure to join all school districts as necessary parties, contained in the same judgment. The appeal has been assigned to the accelerated docket pursuant to Oklahoma Supreme Court Rule 1.36(b), 12 O.S. Supp. 2013, ch. 15, app. 1, and the matter stands submitted without appellate briefing. The Tax Commission has misconstrued the effect of a 2015 amendment to section 1104 of the Motor Vehicle License and Registration Act (47 O.S.2011 §§ 1101 through 1151.4) providing for the collection and apportionment of fees, fines and penalties to Oklahoma school districts. As a result, the Commission failed to distribute to the plaintiffs funds they were statutorily entitled to receive. The judgment of the district court is affirmed as modified.

BACKGROUND

¶2 The plaintiffs are eight independent school districts that receive funds collected by the Tax Commission from motor vehicle fees, taxes and penalties pursuant to the Oklahoma Vehicle License and Registration Act. Section 1104 of the Act requires the Tax Commission to distribute a certain percentage of those collections to eligible school districts, including the plaintiffs. During the 2016 fiscal year, July 1, 2015 through June 30, 2016, the plaintiffs received fewer funds

than they had received in some months of the 2015 fiscal year.¹ In this suit, they sought a declaratory judgment that their receipt of diminished funds occurred because the Tax Commission misinterpreted and, therefore, misapplied a 2015 amendment to section 1104. The plaintiffs also sought injunctive relief, preventing the Tax Commission from continuing to apply section 1104 as it had since the 2015 amendment.

¶3 In summary, the plaintiffs argue that the statute requires the Tax Commission to distribute at least the same amount of funds distributed in the corresponding month of the previous year, or a proportionate amount thereof, rather than distribute a percentage of the funds collected based on average daily attendance, as it had been doing. The Tax Commission argues that its interpretation of the 2015 amendment to section 1104 is correct, and that the district court should defer to the Tax Commission's "great expertise" in interpreting tax statutes. The Tax Commission also filed a motion to dismiss, arguing that the declaratory judgment statute required the joinder of all school districts that receive a portion of motor vehicle collections, because the amount each received would be affected by any relief obtained by the plaintiffs. The Tax Commission appeals the district court's judgment granting the plaintiffs' motion for summary judgment and enjoining the Tax Commission from apportioning

¹ In this Opinion, we will use the convention adopted by the school districts and the Tax Commission, identifying the fiscal year by the year in which it ends.

motor vehicle collections to the school districts based on average daily attendance. The Tax Commission also appeals that portion of the district court's judgment denying the motion to dismiss.

STANDARD OF REVIEW

¶4 Appellate review of the ruling on a motion to dismiss involves a de novo consideration as to whether the petition is legally sufficient. *Indiana Nat'l Bank v. Dep't of Human Servs.*, 1994 OK 98, ¶ 2, 880 P.2d 371. Title 12 O.S.2011 § 2056 governs the procedure for summary judgment in this case. A motion for summary judgment "should be rendered if the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law." 12 O.S.2011 § 2056(C). An order granting summary judgment disposes of issues that are "purely legal" and is subject to the de novo standard of appellate review. *Carmichael v. Beller*, 1996 OK 48, ¶ 2, 914 P.2d 1051. De novo review involves a plenary, independent, and non-deferential examination of the district court's rulings of law. *Neil Acquisition L.L.C. v. Wingrod Inv. Corp.*, 1996 OK 125, n.1, 932 P.2d 1100.

¶5 The dispositive legal issue in this case requires the interpretation of 47 O.S.2011 § 1104. Legal issues involving statutory interpretation are also questions of law, subject to de novo review. *Raymond v. Taylor*, 2017 OK 80, ¶ 9, ___ P.3d

___ (citing *Head v. McCracken*, 2004 OK 84, ¶ 4, 102 P.3d 670; *Fulsom v. Fulsom*, 2003 OK 96, ¶ 2, 81 P.3d 652). “[S]tatutes are construed to determine legislative intent in light of the general policy and purpose that underlie them.” *Troxell v. Okla. Dep’t of Human Servs.*, 2013 OK 100, ¶ 4, 318 P.2d 206.

ANALYSIS

I. The Tax Commission’s Motion to Dismiss

¶6 The Tax Commission’s motion to dismiss cites 12 O.S.2011 § 1653: “When a declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration” According to the Tax Commission, all of the school districts that receive a portion of motor vehicle collections would be affected by any declaratory judgment in favor of the plaintiffs, because any increase in the amount distributed to the plaintiffs would reduce the amount available for distribution to the non-plaintiff school districts. The Tax Commission contends, therefore, that those school districts “shall be made parties.” *Id.* The Tax Commission cites no authority, other than the language of the statute, for the proposition that “shall” as used in section 1653 is mandatory. Nonetheless, that is a common tenant of statutory construction. “The use of ‘shall’ by the Legislature is *normally* considered as a legislative mandate equivalent to the term ‘must’, requiring interpretation as a command.” *Oglesby v. Liberty Mut. Ins. Co.*, 1992 OK 61, ¶ 19, 832 P.2d 834 (emphasis added). But, as the plaintiffs point

out, the word "shall" in section 1653 has not always been interpreted as mandatory, requiring the joinder of all parties who have an interest that may be affected by the litigation.

¶7 In *Reed v. City of Bartlesville*, 1973 OK CIV APP 2, ¶ 11, 510 P.2d 1013, this Court observed: "In spite of the word 'shall' the joinder requirement [in section 1653] is not mandatory in the sense that all parties who might be affected by a declaration must be joined but only those necessarily and directly affected thereby." *Reed* held that all property owners affected by a zoning ordinance were not required to be joined in a declaratory judgment action challenging that ordinance. The *Reed* Court relied, in part, on an article written at the time section 1653 was adopted. See George B. Fraser, *Oklahoma's Declaratory Judgment Act*, 32 Okla.B.J. 1447 (1961). In that article, Professor Fraser stated that "the joinder requirement is not mandatory in spite of the use of the word 'shall.'" *Id.* at 1450. And, in a footnote, he concluded: "Obviously, when the validity of a statute is challenged, all interested persons cannot be joined." *Id.* at n.32. This Court has concluded that "nonjoinder is not an automatic deficiency." *Constr. Res. Corp. v. Courts, Ltd.*, 1979 OK CIV APP 1, ¶ 12, 591 P.2d 335.

¶8 In *Oliver v. City of Tulsa*, 1982 OK 121, 654 P.2d 607, the Supreme Court cited *Reed*, *Construction Resources* and decisions from other jurisdictions in support of its holding that one of the five hundred members of an association was

the proper and only necessary party to a declaratory judgment action. That member sought a determination of rights pursuant to a collective bargaining agreement, and “there was no showing of any controversy between him and any members of the association.” *Id.* ¶ 38. However, the Court reversed that portion of the judgment awarding specific sums of money to individual members of the association, based on its finding that they were “necessary parties in a proceeding to determine whether they were entitled to personal judgments.” *Id.* ¶ 39.

¶9 Although we agree with the authority that “shall” as used in section 1653 is not mandatory, that does not resolve the joinder issue raised by the Tax Commission’s motion to dismiss. The manner in which section 1104 is interpreted affects the interests of the plaintiffs and some of the non-plaintiff school districts differently. As the Tax Commission points out, only a limited amount of money is available for distribution to the eligible school districts. And, the amount received by any particular school district is not the same if distributed based on average daily attendance rather than on a historical basis determined by an amount previously received.

¶10 However, the issue framed by the plaintiffs is not how much money each district should receive for the 2016 fiscal year. The issue is whether the Tax Commission’s interpretation of the 2015 amendment to section 1104 is correct. As the plaintiffs acknowledged in their response to the Tax Commission’s motion to

dismiss, their petition does not seek any monetary relief; it is limited to “declaratory and injunctive relief.” And the plaintiff school districts “are not asking for any money back from the Tax Commission [or from] any school district. They simply want the apportionments to be correct in the future.”² When the issue is the proper construction of a statute, it is not always necessary that all parties potentially affected by the result be joined in the action. *See, e.g., Naifeh v. State ex rel. Okla. Tax Comm’n*, 2017 OK 63, 400 P.3d 759 (deciding the constitutionality of a proposed tax without joinder of all potential beneficiaries of the tax); *Murray Cnty. v. Homesales, Inc.*, 2014 OK 52, 330 P.3d 519 (deciding all counties’ rights to collect taxes pursuant to the Documentary Stamp Tax Act, 68 O.S.2011 §§ 3201 through 3206, in an action brought by only two of the seventy-seven affected counties); *Deutsche Bank Nat’l Trust v. Brumbaugh*, 2012 OK 3, 270 P.3d 151 (construing provisions of Article Three of the Oklahoma Uniform Commercial Code in a mortgage foreclosure action involving only one of numerous affected lenders); *In re: Initiative Petition No. 379*, 2006 OK 89, 155 P.3d 32 (holding invalid an initiative petition filed by a “diverse political and economic group of Oklahoma citizens,” but not all of the qualified voters).

² The plaintiffs’ petition was filed on June 15, 2016, before the start of the 2017 fiscal year. The injunctive relief that the plaintiffs sought could, and in this case did, affect how the funds are distributed in fiscal year 2017. The Tax Commission was on notice that might be a result of this litigation and, therefore, was in apposition to avoid “paying any money back” wrongly distributed in fiscal year 2017.

Because the plaintiffs' case is consistent with these types of cases, we find it unnecessary to address the "public interest" exception to the joinder requirements argued by the plaintiffs and relied on by the district court. *See also Nat'l Licorice Co. v. NLRB*, 309 U.S. 350, 60 S. Ct. 569 (1940). We hold that the non-plaintiff school districts were not required to be joined in this declaratory judgment action and affirm the district court's denial of the Tax Commission's motion to dismiss.

II. The Declaratory Judgment Action

¶11 The substantive issue in this appeal concerns the proper interpretation of a 2015 amendment to section 1104 of the Motor Vehicle License and Registration Act. Section 1104 generally provides that the Tax Commission will distribute all motor vehicle fees, taxes and penalties it collects to eligible school districts and other governmental entities.³ Of particular importance in this appeal are subparagraphs B(2)(a) and B(2)(b) of the 2015 version (hereafter, 2(a) and 2(b) for all versions of the statute unless otherwise noted). Subparagraph 2(a) provides, as it has since the statute's inception, that funds will be apportioned so that each district receives the same amount received in the corresponding month of the previous year. Subparagraph 2(b) provides that, in case of a previous deficit, any

³ Other recipients of motor vehicle collections have included the Tax Commission Reimbursement Fund, various county transportation projects, cities, the Oklahoma Law Enforcement Retirement Fund, the Wildlife Conservation Fund and the General Revenue Fund. *See, e.g.*, 47 O.S. Supp. 1997 § 1104(A)(3) through (11). The funds allocated to other entities do not affect the application of section 1104 to the school districts, only the amount received by the districts. The other distributees are, therefore, not discussed in this Opinion.

excess funds will be distributed so that each district receives the "cumulative total" it was entitled to, but had not yet received, pursuant to subparagraph 2(a). Any funds remaining at that point are to be apportioned based on average daily attendance as provided in the second part of subparagraph 2(b).

¶12 The facts in this case are not disputed and concern the apportionment of motor vehicle collections to 419 Oklahoma school districts for fiscal year 2015, July of 2015 through June of 2016. In each of those months, except for September and December of 2015 and March of 2016, the amount collected and distributed was less than the amount collected and distributed in the corresponding month of the preceding year. In those deficit months, the Tax Commission distributed, pursuant to the second part of subparagraph 2(b), the available funds to the school districts based on average daily attendance. In each of the three months when collections exceeded the amount collected in the corresponding month of the preceding year, the Tax Commission distributed, as required by subparagraph 2(a), sufficient funds for each district to receive the same amount that it had received in that month of the preceding year. However, the remaining funds were distributed based on average daily attendance rather than pursuant to the "cumulative total" requirement of the first part of subparagraph 2(b).

¶13 As the plaintiffs point out, in using this method the Tax Commission disregarded subparagraph 2(a) in the nine deficit months as well as the "cumulative

total” provision of subparagraph 2(b) in the three excess collection months. An understanding of the purpose of the statute as evident from its historical context is necessary to determine whether the Tax Commission’s interpretation of the 2015 amendment to section 1104 is correct.

A. The Evolution of Section 1104 Funding

¶14 Partial funding for Oklahoma schools from fees, taxes and penalties collected pursuant to this Motor Vehicle License and Registration Act began in 1985 with the enactment of the original version of section 1104. Thereafter, an eligible school district received “the same amount of funds as such district received from the taxes and fees provided in this act in the corresponding month of the preceding year.” 47 O.S. Supp. 1985 § 1104(B)(1)(a), now B(2)(a).⁴ Although the percentage of all motor vehicle collections apportioned to the school districts has varied over time, this method for allocating the amount distributed to the school districts remained relatively unchanged until 2017.

¶15 Section 1104 has been amended numerous times, but for historical purposes, the 1997 version of that statute is relevant to this case. And, it was the version in effect immediately prior to the 2015 amendment. The 1997 statute provided that thirty-five percent (35%) of all motor vehicle collections were to be apportioned to eligible school districts according to the following formula:

⁴ What is not apparent from this record is how the original amount distributed to any particular district was determined.

a. except as otherwise provided in this subparagraph, each district shall receive the same amount of funds as such district received from the taxes and fees provided in this title in the corresponding month of the preceding year. . . .

b. any funds remaining unallocated following the allocation provided in subparagraph a of this paragraph shall be apportioned to the various school districts so that each district shall first receive the cumulative total of the monthly apportionments for which it is otherwise eligible under subparagraph a of this paragraph and then an amount based upon the proportion that each district's average daily attendance bears to the total average daily attendance of those districts entitled to receive funds pursuant to this section. . . .

c. if, for any month, the funds available are insufficient to provide the total allocation required in subparagraph a of this paragraph, each district shall receive a proportionate share of the funds available based upon the proportion of the total revenues that such district received in the corresponding month of the preceding year.

47 O.S. Supp. 1997 § 1104(A)(2) (section 1104(B)(2) of the 2015 version). This is the same formula that had been used since 1987. *See* 47 O.S. Supp. 1987 § 1104(B)(2).

¶16 In 2000, section 1104 was amended, to gradually increase the percentage of motor vehicle collections apportioned to the school districts and ensure that the money received by the school districts would not "be less than the monies apportioned in the previous fiscal year." 47 O.S. Supp. 2000 § 1104(M). In

addition, subparagraph 2(c) was repealed, eliminating the proportionate reduction provision applicable in deficit collection months.

¶17 Thereafter, and until the 2015 amendment, motor vehicle collections were to be disbursed pursuant to subparagraphs 2(a) and 2(b), and paragraph M, in order for each eligible school district to receive at least the same amount it had received in the previous fiscal year. However, during that time, according to the affidavit of the Tax Commission official charged with apportioning motor vehicle collections to the school districts, "for any month in which the amount to be apportioned was less than the amount apportioned to the school districts in the same month of the previous year, the hold harmless provision was applied resulting in monies that would have otherwise gone to the general fund being used to ensure school districts received no less than in the previous year."

¶18 "Hold harmless" is a concept usually associated with a contractual agreement by one party to assume the potential liability of another party. *Black's Law Dictionary* 658 (5th ed. 1979). The term has also been used in reference to another aspect of school funding but unrelated to this case. *See Fair Sch. Fin. Council of Okla., Inc. v. State*, 1987 OK 114, 746 P.2d 1135 (Wilson, J., dissenting). We understand the Tax Commission's use of the term in this case to refer to the allocation of funds to the school districts necessary to ensure that the districts received on a monthly basis, through subparagraphs 2(a) and 2(b), or on

an annual basis, through paragraph M, not less than the same amount received for the corresponding time period of the previous year. Although the Tax Commission interprets the 2000 version of section 1104 as containing two "hold harmless" provisions, the affidavit refers only to the latter. This is apparent from the reference in the next sentence of the affidavit to the 2015 repeal of the "hold harmless provision," *i.e.*, paragraph M. The 2015 amendment did not alter, change or affect subparagraphs 2(a) and 2(b).

¶19 The Tax Commission's approach during the 2000 to 2015 time period is confusing. The "hold harmless" provision in paragraph M did not specify how monthly collections were to be apportioned. That provision provided that the school districts would not receive "less than the monies apportioned in the previous fiscal year." 47 O.S. Supp. 2000 § 1104(M). Consequently, paragraph M provides for any annual reconciliation necessary to ensure that the funds received in one fiscal year were not less than those received in the prior fiscal year, but only when the monthly distributions made pursuant to subparagraphs 2(a) and 2(b) were insufficient to make up any annual deficit. Only subparagraphs 2(a) and 2(b) specify how the Tax Commission is to apportion the available funds in any particular month.

¶20 Nonetheless, this appears to be the method used by the Tax Commission from 2000 until July 1, 2015, the effective date of the 2015 amendment to section

1104. The 2015 amendment fixed the percentage of motor vehicle collections distributed to the school districts at thirty-six and twenty one-hundredths percent (36.20%). However, the hold harmless provision in paragraph M – now renumbered as paragraph N – was repealed. As a result, the school districts were no longer guaranteed the same amount received in the previous fiscal year. And, the total amount the school districts could receive was now capped: “in no event shall the amount apportioned in any fiscal year [to the school districts] exceed the total amount apportioned for the fiscal year ending on June 30, 2015.” 47 O.S. Supp. 2015 § 1104(B)(2)(d). Any excess was “placed to the credit of the General Revenue Fund.” *Id.*

¶21 Subparagraphs 2(a) and 2(b) were not affected by the 2015 amendment. Consequently, the method for distributing the thirty-six and twenty one-hundredths percent (36.20%) of motor vehicle collections among the eligible school districts on a monthly basis remained unchanged. First, each district was to receive “the same amount of funds as such district received . . . in the corresponding month of the preceding year.” 47 O.S. Supp. 2015 § 1104(B)(2)(a). Second, any remaining funds were to be distributed “so that each district shall first receive the cumulative total of the monthly apportionments for which it is otherwise eligible under subparagraph a” 47 O.S. Supp. 2015 § 1104(B)(2)(b). Third, any funds

unallocated at that point were to be distributed based on a percentage determined by average daily attendance. *Id.*

B. The Plaintiffs' Interpretation

¶22 It is not disputed that the total amount of motor vehicle collections that the Tax Commission apportioned to the plaintiffs in fiscal year 2016 was less than those districts received in the 2015 fiscal year, and that in only three months of fiscal year 2016 did the plaintiffs receive an amount equal to the amount received in the corresponding month of the preceding fiscal year. The plaintiffs allege that the deficit funding they received resulted from the Tax Commission's misinterpretation of the 2015 amendment to section 1104. They argue that the Tax Commission completely disregarded the "cumulative total" provision of subparagraph 2(b) and was wrong to conclude that subparagraph 2(a) did not permit the proportionate distribution of funds in months when the available funds were less than the total funds distributed in the corresponding month of fiscal year 2015.

C. The Tax Commission's Interpretation

¶23 The Tax Commission contends that after July 1, 2015, in months when the funds available for distribution were insufficient to distribute the same amount the school districts received in the corresponding month of the preceding year, the Tax Commission was required to distribute the available funds based on a school

district's average daily attendance because there was no other statutory provision applicable in such circumstances. Specifically, the Tax Commission argues that the 2000 repeal of subparagraph 2(c) left it with no statutory authority to distribute, on a monthly basis, less than the amount previously distributed. According to the Tax Commission, in months when the amount available for distribution was less than the total amount distributed to the school districts in the corresponding month of the previous year, subparagraph 2(a) did not apply because it was impossible for "each district [to] receive the same amount of funds as such district received . . . in the corresponding month of the preceding year." 47 O.S. Supp. 2015 § 1104(B)(2)(a). The Tax Commission's narrow focus after the 2015 amendment on only a portion of the language of subparagraph 2(a) infuses that language with a new meaning it had not previously had and "leads to an inconsistent or incongruent result." *Hogg v. Okla. Cnty. Juvenile Bureau*, 2012 OK 107, ¶ 7, 292 P.3d 29. We are required, therefore, to "utilize rules of statutory construction to reconcile the discord and ascertain the legislative intent." *Id.*

III. The Effect of the 2015 Amendment

¶24 The Tax Commission asserts two arguments in support of its interpretation of the 2015 amendment to section 1104. First, it argues that the courts should defer to the Tax Commission's expertise in this area. Second, the Tax Commission

argues that it has properly interpreted the 2015 amendment and the amendment's effect. We find neither argument persuasive.

A. The Tax Commission's Deference Argument

¶25 The Tax Commission correctly argues that its expertise in construing and administering tax statutes is entitled to *some* persuasive value. “[T]he contemporaneous construction of a statute by those charged with its execution and application, especially when it has long prevailed, while not controlling, is entitled to great weight and should not be disregarded or overturned except for cogent reasons” *Oral Roberts Univ. v. Okla. Tax Comm'n*, 1985 OK 97, ¶ 10, 714 P.2d 1013. Of equal importance, however, is the principle that where the Legislature has “convened many times during this period of administrative construction,” or “amends the statute or re-enacts it without overriding such construction,” the Legislature may be regarded as having acquiesced in or approved of the administrative construction. *Id.* ¶ 17. Here, the Legislature amended section 1104 numerous times between 1985 and 2015 without altering subparagraphs 2(a) and 2(b) or the method of distribution the Tax Commission understood those provisions to require. When the Legislature is regarded as having adopted the Tax Commission's construction, “the Commission may not with the stroke of a pen undo it.” *Id.* ¶ 19.

¶26 Further, construction of section 1104 and the 2015 amendment thereto does not require any particular technical or scientific knowledge, skill or expertise. “This is simply a matter of determining what a statute means, and that is within the expertise of the courts.” *Dobson Tel. Co. v. State ex rel. Okla. Corp. Comm’n*, 2017 OK CIV APP 16, ¶ 15, 392 P.3d 295 (approved for publication by the Supreme Court). “This Court and the Oklahoma Supreme Court are ‘the ultimate authority on the interpretation of the laws of this State’” *Id.* (quoting *Robinson v. Fairview Fellowship Home for Senior Citizens, Inc.*, 2016 OK 42, ¶ 13, 371 P.3d 477).

B. The Tax Commission’s Statutory Construction Argument

¶27 The Tax Commission has conceded that, prior to 2015, it had a long history of interpreting subparagraph (2)(a) as a “hold harmless” provision: “The 2015 amendment deleted one ‘hold harmless’ provision in subsection [M], but did not change the ‘hold harmless’ provision which has been included in paragraph (2)(a). . . for a period of more than twenty (20) years.” In that twenty, actually thirty-year-period, the Tax Commission had distributed available funds pursuant to subparagraph 2(a), even when the funds available were less than the funds distributed in the corresponding month of the previous year.

¶28 It may be, as the Commission contends, that during most of that time subparagraph 2(c) was in effect. However, subparagraph 2(c) only provided the

method for determining the amount each district would receive in months when the available funds were less than those available in the corresponding month of the previous year. Subparagraph 2(a) still provided the authority for apportioning the available funds to the school districts, and the benchmark for determining the amount received by each district, i.e., the amount received in the corresponding month of the previous year. The Tax Commission's interpretation, by contrast, would have prevented any distribution in any deficit collection month and any distribution of the funds collected in excess collection months until the excess funds were sufficient to make up the entire deficit. The Tax Commission avoided that incongruent result by treating paragraph M as authorizing distributions on a monthly basis when necessary to apportion the amount specified in subparagraph 2(a).

¶29 Further, the Commission's interpretation fails to account for the first clause of subparagraph 2(a): "except as otherwise provided in this subparagraph." There are two exceptions "otherwise provided" to the requirement that each school district receive the same amount received in the corresponding month of the preceding year. First, in months when there was an excess, the districts would receive more, as provided in subparagraph 2(b). Second, in months when there was a deficit, the districts would receive less, as provided in subparagraph 2(c). In

either case, the amount received was some portion of the funds authorized by subparagraph 2(a).

¶30 The Tax Commission has not explained why the repeal of subparagraph 2(c) in 2000 requires a new interpretation of subparagraphs 2(a) or 2(b). The 2015 amendment did not alter, amend or change the language of either. And, subparagraphs 2(a) and 2(b) had been the subject of a long-standing, consistent administrative and legislative interpretation since 1987. Even after 2000, subparagraph 2(b) still continued to provide a mechanism for apportioning excess funds, when available, to accomplish as nearly as possible the basic allocation of funds contemplated in subparagraph 2(a), when funds available for distribution were insufficient to provide the same amount distributed in the corresponding month of the previous year. The Tax Commission's current construction of subparagraph 2(a) "must not be guided by a single sentence or member of a sentence, but [should] look to the provisions of the whole law, and to its object and policy." *Anderson v. Eichner*, 1994 OK 136, n.25, 890 P.2d 1329 (quoting *Richards v. United States*, 369 U.S. 1, 11, 82 S. Ct. 585, 591-92 (1962)). We find no expression of Legislative intent to alter the original intent and application of subparagraphs 2(a) or 2(b) until 2017.

C. The Object and Policy of Section 1104

¶31 Since 1987, the Legislature has contemplated that there may be months in which the funds available for distribution as specified in subparagraph 2(a) would be insufficient. This is clearly evident from the provision in subparagraph 2(c) for proportionate reduction of the amount specified in subparagraph 2(a). But, this intent is equally evident from the language of subparagraph 2(b), which provides a “catch-up” mechanism from excess funds collected in subsequent months when the funds actually distributed in any prior month had failed to meet the threshold specified in subparagraph 2(a). In those months, the excess funds were “apportioned to the various school districts so that each district shall first receive the cumulative total of the monthly apportionments for which it is otherwise eligible under subparagraph [2(a)]” 47 O.S. Supp. 1987 § 1104(B)(1)(b). Only if an amount less than the amount specified in subparagraph 2(a) had actually been distributed would there be any need for an additional “catch-up” distribution. More importantly, only after the school districts had been “made whole” pursuant to the first part of subparagraph 2(b) was the Tax Commission authorized to apportion funds on the basis of average daily attendance. *Id.* The Tax Commission’s interpretation of the 2015 version of subparagraph 2(a) as prohibiting proportionate distributions in deficit collection months cannot be

reconciled with the monthly “catch-up” procedure provided in subparagraph 2(b) of that statute.

¶32 Further, in 2017, section 1104 was amended to delete subparagraphs 2(a) and 2(b) in their entirety. Effective August 25, 2017, the motor vehicle collections available for the school districts are “apportioned to the various school districts so that each district shall receive an amount based upon the proportion that each district’s average daily attendance bears to the total average daily attendance of those districts entitled to receive funds” 47 O.S. Supp. 2017 § 1104(B)(2).

[B]y amending a statute the Legislature may have intended (1) to change existing law or (2) to clarify ambiguous law. The exact intent is ascertained by looking to the circumstances surrounding the amendment. If the earlier version of a statute definitely expresses a clear and unambiguous intent or has been judicially interpreted, a legislative amendment is presumed to change the existing law. Nonetheless, if the earlier statute’s meaning is in doubt or uncertain, a presumption arises that the amendment is designed to clarify, i.e., more clearly convey, legislative intent which was left indefinite by the earlier statute’s text.

Samman v. Multiple Injury Trust Fund, 2001 OK 71, ¶ 13, 33 P.3d 302 (footnotes omitted). Until July of 2015, the meaning of subparagraphs 2(a) and 2(b), as construed by this Court and by the Tax Commission, had not been in doubt or uncertain. If the repeal of subparagraph 2(c) and later paragraph M created confusion concerning how funds were to be apportioned to the school districts, as the Tax Commission contends, the Legislature could have clarified “existing law”

by reinstating subparagraph 2(c), making it clear that the previous method of apportioning funds to the school districts was still provided in subparagraph 2(a). The Legislature did not do this.

¶33 The language of the 2017 amendment and the method of distributing motor vehicle collections to the school districts is so different from the previous method provided in subparagraph 2, that it is clear the Legislature intended to change the existing law by eliminating any apportionment based on amounts historically received. Further, the 2017 amendment cannot be construed as an accident or coincidence. The original version of section 1104 provided that any excess funds would “be apportioned . . . based upon the portion that each district’s average daily attendance bears to the total average daily attendance” 47 O.S. Supp. 1985 § 1104(B)(1)(b). In 1987, that subparagraph was amended to add the “catch-up” method previously discussed, a method unchanged until its repeal in 2017. Consequently, the Legislature was thoroughly familiar with the historical and attendance-based methods of apportioning funds to the school districts. In 2017, the Legislature chose to rely solely on the attendance method. In doing so, the Legislature changed existing law. “The law-making body is presumed to have expressed its intent in a statute’s language and to have intended what the text expresses.” *Yocum v. Greenbriar Nursing Home*, 2005 OK 27, ¶ 9, 130 P.3d 213.

¶34 Therefore, it is apparent that even after the 2015 amendment to section 1104, the Legislature intended for subparagraph 2(a) to require an apportionment of available funds even in months when the available funds were insufficient to provide each district with the same amount distributed in the corresponding month of the previous year, and for subparagraph 2(b) to first require the distribution of any excess collections in subsequent months to ensure, as nearly as possible, that the amounts specified in subparagraph 2(a) would be received. Not until 2017 did the Legislature change this method of apportioning motor vehicle collections to the school districts. Although the Tax Commission may have been able in 2015 to predict that the Legislature was going to adopt an attendance-based method, this case requires us to interpret the statute in effect until the Legislature subsequently amended the statute.

D. The District Court's Judgment

¶35 The district court's interpretation of the 2015 version of section 1104 is consistent with this Court's interpretation. The district court ordered the Tax Commission to recalculate the amount the plaintiff school districts were entitled to receive for fiscal year 2016 and to base future distributions on the recalculated amount. We modify that portion of the district court's judgment. The Tax Commission shall recalculate the amount of motor vehicle collections that all eligible school districts should have received for fiscal year 2015 and base the

future apportionment of funds on that amount consistent with the interpretation of the 2015 version of section 1104 in this Opinion. This method should govern until the effective date of the 2017 amendment. The plaintiffs do not seek, and we do not order, redistribution of motor vehicle collections received by the school districts in fiscal year 2015.

CONCLUSION

¶36 The Tax Commission has misinterpreted the effect of a 2015 amendment to section 1104 and consequently apportioned the wrong amount of motor vehicle collections to eligible school districts, including the plaintiffs. Between July 1, 2015, and August 25, 2017, the school districts should have received each month a percentage of the available funds based on the amount each district received in the corresponding month of the 2015 fiscal year. Any excess funds collected during September and December of 2015 and March of 2016 should have been distributed “so that each district shall first receive the cumulative total of the monthly apportionments for which it is otherwise eligible under subparagraph a” 47 O.S. Supp. 2015 § 1104(B)(2)(b). The Tax Commission shall recalculate the amount that should have been apportioned to the school districts pursuant to this method and base the apportionment of motor vehicle collections on the recalculated amounts for the July 1, 2016 to August 25, 2017 time period.

¶37 **AFFIRMED AS MODIFIED.**

RAPP, J., and GOODMAN, J., concur.

February 9, 2018

EXHIBIT 2

EXHIBIT 2



IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

Independent School District No. 2, Tulsa County, Oklahoma, Independent School District No. 52, Oklahoma County, Oklahoma, Independent School District No. 71, Kay County, Oklahoma, Independent School District No. 20, Muskogee County, Oklahoma, Independent School District No. 18, Jackson County, Oklahoma, Independent School District No. 14, Ottawa County, Oklahoma, Independent School District No. 105, Blaine County, Oklahoma and Independent School District No. 2, Kiowa County, Oklahoma,
Plaintiffs/Appellees,

)
) Supreme Court Case Number: 115678
)
) Lower Court Case Number: CV-2016-1249
)
) Lower Court: Oklahoma County District Court
)

vs.

Oklahoma Tax Commissioner, Steve Burrage,
Oklahoma Tax Commissioner, Dawn Cash and
Oklahoma Tax Commissioner, Thomas E. Kemp, Jr.,
Defendants/Appellants.

MANDATE

On the 20th day of June, 2018, the Honorable Chief Justice Douglas L. Combs of the Oklahoma Supreme Court ordered the Clerk of the Supreme Court to issue mandate, pursuant to the rules of the Oklahoma Supreme Court, in the above-styled appeal from the Oklahoma County District Court.

On appeal, the following judgment was entered on February 9th, 2018:

AFFIRMED AS MODIFIED

Costs of \$0.00 are taxed and allowed pursuant to Section 978 of Title 12 of the Oklahoma Statutes and the rules of the Oklahoma Supreme Court.

Therefore, the Oklahoma County District Court is directed to enter of record the above judgment and to issue process or take further action as required by the order or opinion issued in this appeal.

JOHN D. HADDEN
Clerk of the Appellate Courts

By LaDonna Johnson, Deputy

EXHIBIT 3

EXHIBIT 3

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

INDEPENDENT SCHOOL DISTRICT No. 2,)
TULSA COUNTY, OKLAHOMA;)
INDEPENDENT SCHOOL DISTRICT No. 52,)
OKLAHOMA COUNTY, OKLAHOMA;)
INDEPENDENT SCHOOL DISTRICT No. 71,)
KAY COUNTY, OKLAHOMA;)
INDEPENDENT SCHOOL DISTRICT No. 20,)
MUSKOGEE COUNTY, OKLAHOMA;)
INDEPENDENT SCHOOL DISTRICT No. 18,)
JACKSON COUNTY, OKLAHOMA,)
INDEPENDENT SCHOOL DISTRICT No. 14,)
OTTAWA COUNTY, OKLAHOMA;)
INDEPENDENT SCHOOL DISTRICT No. 105,)
BLAINE COUNTY, OKLAHOMA; and)
INDEPENDENT SCHOOL DISTRICT NO. 2,)
KIOWA COUNTY, OKLAHOMA,)

Plaintiffs,)

v.)

OKLAHOMA TAX COMMISSIONER, STEVE)
BURRAGE; OKLAHOMA TAX)
COMMISSIONER DAWN CASH; and)
OKLAHOMA TAX COMMISSIONER,)
THOMAS E. KEMP, JR.,)

Defendants.)

FILED IN DISTRICT COURT
OKLAHOMA COUNTY

DEC - 9 2016

RICK WARREN
COURT CLERK

89

Case No. CV-2016-1249

JOURNAL ENTRY OF DECLARATORY JUDGMENT AND INJUNCTION

Now on this 14th day of October, 2016, this matter comes on for consideration of Motion to Dismiss for Failure to Join Interested Parties, Oklahoma Tax Commissioner Steve Burrage, Oklahoma Tax Commissioner Dawn Cash, and Oklahoma Tax Commissioner Thomas E. Kemp, Jr. (Defendants collectively referred to hereinafter as "OTC") and Plaintiffs' Motion for Summary Judgment. Both motions are at issue. Plaintiffs appear through Robert A. Nance and Gary Watts and OTC appears through Marjorie Welch and Alan R. Leizear. Having reviewed the

motions, briefs, and attached material, and having heard the argument of counsel, the Court finds and orders as follows:

OTC's Motion to Dismiss for Failure to Join Interested Parties is denied based upon authority presented by Plaintiffs, and particularly because this case presents a matter of public interest in the construction of 47 O.S. § 1104 and the apportionment of motor vehicle collection to school districts. Plaintiffs need not join other school districts as parties in this case.

The Plaintiffs' Motion for Summary Judgment is granted as follows. Pursuant to 12 O.S. § 1651 the Court finds an actual controversy exists between Plaintiffs and OTC regarding the construction of 47 O.S. § 1104. Therefore, the Court will determine the proper construction of that statute as it pertains to the apportionment of motor vehicle collections to all school districts in Oklahoma and enters this declaratory judgment accordingly. The Court finds that Plaintiffs presented the correct construction of 47 O.S. § 1104(B)(2) as a three step process or set of priorities for the apportionment of motor vehicle collections which shall be applied to all school districts.

The Plaintiffs' Motion for Summary Judgment requesting relief for Plaintiffs only is also granted. OTC shall recalculate the amount of motor vehicle collections Plaintiffs would have received for July, 2015, apportioned in August, 2015, and all subsequent months had motor vehicle collections been apportioned in the manner set forth herein. This Order specifically does not require or provide for the recalculation of motor vehicle collections for July, 2015, apportioned in August, 2015, and all subsequent months for any school district other than Plaintiffs.

First, pursuant to 47 O.S. § 1104(B)(2)(a) the OTC must apportion to school districts the "same amount of funds as such district received from the taxes and fees provided in [Title 47] in the corresponding month of the preceding year." If the total motor vehicle collections for a given month equal or exceed the motor vehicle collections apportioned to non-Plaintiff school districts plus the recalculated motor vehicle collections for Plaintiffs for the corresponding month of the

previous year, OTC shall apportion to school districts the same amount either received, or as recalculated, in the corresponding month of the preceding year.

If the total motor vehicle collections for a given month are *equal to* the actual motor vehicle collections apportioned for the corresponding month of the previous year but are less than the motor vehicle collections apportioned to non-Plaintiff school districts plus the recalculated motor vehicle collections for Plaintiffs, OTC shall determine the percentage the current month's motor vehicle collections bears to the total motor vehicle collections plus the recalculated motor vehicle collections for the corresponding month in the previous year. OTC shall apportion to each school district the percentage of its previous year's apportionment or recalculated apportionment.

If the motor vehicle collections for a given month are *less than* in the corresponding month of the preceding year and as recalculated for the Plaintiff districts only pursuant to this order, the OTC shall determine the percentage of the current month's motor vehicle collections bears to the total motor vehicle collections plus the recalculated motor vehicle collections for the corresponding month in the previous year. OTC shall apportion to each school district the percentage of its previous year's apportionment or recalculated apportionment.

If motor vehicle collections in any month exceed the motor vehicle collections plus the amount of recalculated motor vehicle collections for Plaintiffs in the corresponding month of the preceding year, there will be funds remaining unallocated following the allocation provided for pursuant to 47 O.S. § 1104(B)(2)(a). Pursuant to 47 O.S. § 1104(B)(2)(b), any funds in a given month which remain unallocated following the allocation provided for in 47 O.S. § 1104(B)(2)(a), "shall be apportioned to the various school districts so that each district shall first receive the cumulative total of the monthly apportionments for which it is otherwise eligible under" 47 O.S. § 1104(B)(2)(b). In determining this apportionment, OTC shall first calculate the "cumulative total" referred to by totaling the monthly motor vehicle apportionments to date for each district in the

current fiscal year and subtracting from that sum the total motor vehicle collections apportioned to each non-Plaintiff school district, or the recalculated motor vehicle collections for each Plaintiff school district, for the corresponding months of the previous year. Only those school districts for which the difference, being the cumulative total referred to, is negative (a shortfall) shall receive an apportionment under this step. Each eligible school district experiencing a shortfall shall receive as that school district's apportionment from the funds available, the proportion of its shortfall to the cumulative totals of shortfalls for all eligible shortfall school districts.

If motor vehicle collections remain in any given month after apportionment has been made as required in 47 O.S. § 1104(B)(2)(a) and as required to apportion the cumulative total of monthly apportionments for which districts are otherwise eligible under 47 O.S. § 1104(B)(2)(b) then, and only then, OTC shall apportion any remaining funds to eligible districts in an "amount based upon the proportion that each school districts' average daily attendance bears to the total average daily attendance of those school districts entitled to receive funds pursuant to [47 O.S. § 1104] as certified by the State Department of Education"

Because this is a matter of public interest, OTC shall apply this construction prospectively to all school districts eligible to receive apportionment of motor vehicle collections, and not just to the eight Plaintiff districts in this case.

Further, for the eight Plaintiff districts, and not for any other school districts, OTC shall prospectively use as "preceding year" figures the sums that OTC would have apportioned to the Plaintiff districts for the period beginning with the August, 2015 apportionment of July, 2015 motor vehicle collections until the month in which this order is entered, had the OTC applied the statute as ordered herein. OTC shall treat the revised amounts so arrived at constructively as the "taxes and fees provided for in [Title 47] in the corresponding month of the preceding year" within the meaning of 47 O.S. § 1104(B)(2)(a) for future apportionments.

Judgment is entered for Plaintiffs accordingly.

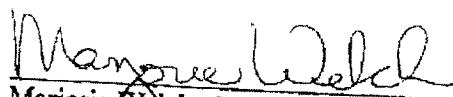
PATRICIA G. PARRISH

Honorable Patricia Parrish
Judge of the District Court

APPROVED AS TO FORM



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ATTORNEYS FOR PLAINTIFFS

CERTIFIED COPY
AS FILED OF RECORD
IN DISTRICT COURT

DEC - 9 2016

RICK WARREN COURT CLERK
Oklahoma County



EXHIBIT 4

EXHIBIT 4

Robert A. Nance

From: Jorie Welch <jwelch@tax.ok.gov>
Sent: Friday, August 03, 2018 4:13 PM
To: 'Gary Watts'; Robert A. Nance
Cc: Stephanie Theban; Lee Pugh; Alan R. Leizear; Kathy Walker
Subject: ISD No. 2, Tulsa County, et al v OTC File No. L-16-156 - Update to Recalculation
Attachments: MVC Schools Lawsuit amounts w Jan Feb Mar correction.xlsx

Counselors;

I have attached what I believe Mr. Watts requested in his email below. The attached was compiled from the "13 Months Correction" tab on the schedule provided to you yesterday. If the schedule is not what was requested or what you were expecting, please let me know.

With respect to your inquiries about the Commission's next step, please be advised that the Oklahoma Tax Commission considers its recalculation pursuant to the Court on Civil Appeals' Order of Rehearing, and the acceptance of the recalculation by your clients, as the final step with respect to this case.

I will be out of the office the majority of next week. Should you have questions or wish to discuss, please do not hesitate to contact me. If you have questions or wish to discuss prior to me returning to the office on Thursday afternoon, please do not hesitate to contact Lee Pugh at 405/522-9460.

Marjorie Welch
First Deputy General Counsel
Oklahoma Tax Commission
100 N. Broadway, Ste. 1500
Oklahoma City, OK 73102-8601
Phone: 405/522-9460
Fax: 405/601-7144

From: Gary Watts [mailto:gary.watts@sandites.org]
Sent: Friday, August 03, 2018 8:49 AM
To: Jorie Welch
Cc: Robert A. Nance; Stephanie Theban; Lee Pugh; Alan R. Leizear; Kathy Walker
Subject: Re: FW: ISD No. 2, Tulsa County, et al v OTC File No. L-16-156 - Update to Recalculation

Counselor Welch,

We have reviewed the recalculations for the eight plaintiff school districts you transmitted to us yesterday. We accept the Management Services Division's work as a correct recalculation of the apportionments required to be recalculated by the CCOA order for those eight districts and believe, if the same calculation method is used, that the amounts determined for other affected school districts should be correct as well. We accept as correct the amounts shown on the sheet named "Plaintiff Schools" and captioned "These are the totals the plaintiffs will receive from the judgement." We would appreciate receiving the corrected information for all school districts and being informed, as soon as possible, about the Commission's next steps in this matter.

Gary Watts

On Thu, Aug 2, 2018 at 10:14 AM, Jorie Welch <jwelch@tax.ok.gov> wrote:

Counselors;

The Management Services Division has revised its calculations after reviewing the inquiry from Mr. Watts. An explanation of the recalculations can be found below. Please note that the recalculation affected July 2016 as well as January through March 2017.

The "13 month total" tab reflects the total variance between the actual payments sent out and the recalculation amount.

Please review and advise.

Marjorie Welch

First Deputy General Counsel

Oklahoma Tax Commission

100 N. Broadway, Ste. 1500

Oklahoma City, OK 73102-8601

Phone: 405/522-9460

Fax: 405/601-7144

From: Carol McCullar

Sent: Wednesday, August 01, 2018 5:13 PM

To: Jorie Welch; Lee Pugh; Tony Mastin

Cc: Leeann C. Sprinkle; Cindy Elliott; Diedra O'Neil

Subject: RE: ISD No. 2, Tulsa County, et al v OTC File No. L-16-156 - Update to Recalculation

Yes. Per the recalculation order, in the overage months the extra funds are applied back to the first month of the fiscal year that was underfunded per the hold harmless lookback to prior year. July 2016 was over \$3 million under July 2015, so July 2016 was affected by changes to any following month with overage amounts. January and March 2017 both had overages applied back to July 2016.

Let me know if you have any questions. That is a lot of verbiage and probably needs a flow chart example to follow the money.

Carol

From: Jorie Welch
Sent: Wednesday, August 01, 2018 4:40 PM
To: Carol McCullar; Lee Pugh; Tony Mastin
Cc: Leeann C. Sprinkle; Cindy Elliott; Diedra O'Neill
Subject: RE: ISD No. 2, Tulsa County, et al v OTC File No. L-16-156 - Update to Recalculation

Can you explain the change to July 2016?

Jorie

From: Carol McCullar
Sent: Wednesday, August 01, 2018 3:32 PM
To: Jorie Welch; Lee Pugh; Tony Mastin
Cc: Leeann C. Sprinkle; Cindy Elliott; Diedra O'Neill
Subject: FW: ISD No. 2, Tulsa County, et al v OTC File No. L-16-156 - Update to Recalculation

Jorie,

In response to Question No. 2 from Mr. Watts, attached are the revised spreadsheets taking into account the over/under collection issue of January and February 2017, along with the correction month of March 2017. These are the two workbooks that we originally sent to you, but I don't know if you supplied just the second workbook to Mr. Watts, or both. The spreadsheets reflect changes to July 2016/Jan 2017/Feb 2017/Mar 2017. I have shown Mr. Watts question below for reference.

Thank you,

Carol

2. The Commission has previously stated that apportionments to school districts based on January and February, 2017 collections were incorrectly calculated due to overstatement of January 2017 collections by \$2,115,200.93 (making it an "over collection" month when it was actually an "under collection" month) and an understatement of February 2017 collections by the same amount. This caused February and March, 2017

apportionments to be incorrectly calculated which error was corrected by adjustments to the apportionment in April 2017. The recalculation of the apportionments for January and February, 2017 collections presented by the Commission in response to the CCOA order uses the same, \$23,172,207.55 and \$16,548,181.37, incorrect amounts. This results in January still being treated as an over collection month. Why does the Commission's recalculation use these amounts instead of the corrected amounts for January and February, 2017, being \$21,057,006.62 and \$18,663,382.30, respectively, upon which the apportionments were corrected?

We have not attempted to replicate the Commission's work in its entirety, rather we have performed the recalculations for the eight plaintiff districts in an attempt to confirm the "13 Month Total" for each as reported. While our resulting amounts differ from the Commission's, the amounts are not material and do not cause us to doubt the accuracy of the Commission's work except as noted in question 2 above. While not essential, we would appreciate the opportunity to visit briefly with a staff member familiar with the calculations to see if some minor differences could be reconciled.

Thank you for your timely consideration of these matters.

Gary Watts

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EXHIBIT 4-1

EXHIBIT 4-1

These are the totals the plaintiffs will receive from the judgement.

County	Account	School	
JACKSON	331018	ALTUS	3,961,269.76
BLAINE	061105	CANTON	13 Month Total
KIOWA	381002	LONE WOLF	370,670.64
OKLAHOMA	551052	MIDWEST CITY-DEL CITY	41,848.37
MUSKOGEE	511020	MUSKOGEE	32,601.71
KAY	361071	PONCA CITY	2,066,277.18
OTTAWA	581014	QUAPAW	462,505.17
TULSA	721002	SAND SPRINGS	460,047.54
			61,487.06
			465,832.09

EXHIBIT 4-2

EXHIBIT 4-2

These are the totals the growing schools will have taken away because of the judgement.

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County	Account	School	(22,797,480.81)
ADAIR	1011011	WESTVILLE	13 Month Total
ATOKA	031007	STRINGTOWN	(48,291.88)
ATOKA	031019	TUSHKA	(18,290.88)
BECKHAM	051002	MERRITT	(30,676.69)
BRYAN	071001	SILO	(55,317.57)
BRYAN	071004	COLBERT	(111,407.71)
BRYAN	071005	CADDO	(9,077.14)
BRYAN	071040	BENNINGTON	(25,435.96)
BRYAN	071048	CALERA	(16,422.55)
BRYAN	071072	DURANT	(63,116.35)
CADDO	081161	HINTON	(241,211.96)
CANADIAN	091022	PIEDMONT	(36,196.14)
CANADIAN	091027	YUKON	(778,277.07)
CANADIAN	091069	MUSTANG	(633,618.75)
CARTER	101027	PLAINVIEW	(1,539,624.48)
CARTER	101032	LONE GROVE	(101,593.66)
CARTER	101077	DICKSON	(51,026.27)
CHEROKEE	111006	KEYS	(21,904.94)
CHEROKEE	111035	TAHLEQUAH	(123,651.65)
CHOCTAW	121001	BOSWELL	(12,185.43)
CHOCTAW	121004	SOPER	(1,666.24)
CLEVELAND	141002	MOORE	(45,379.14)
CLEVELAND	141029	NORMAN	(1,695,361.98)
CLEVELAND	141057	LEXINGTON	(1,155,863.33)
CLEVELAND	141070	LITTLE AXE	(31,674.66)
COAL	151002	TUPELO	(7,357.33)
COMANCHE	161001	CACHE	(8,345.89)
COMANCHE	161003	STERLING	(264,404.43)
COMANCHE	161009	FLETCHER	(13,423.13)
COMANCHE	161016	ELGIN	(16,830.35)
CRAIG	181008	KETCHUM	(378,688.13)
CREEK	191002	BRISTOW	(16,572.17)
CREEK	191003	MANNFORD	(6,836.89)
CREEK	191018	KIEFER	(29,949.84)
CUSTER	201026	WEATHERFORD	(81,130.77)
DELAWARE	211002	GROVE	(19,972.19)
DELAWARE	211003	KANSAS	(173,582.85)
GARVIN	251002	STRATFORD	(66,316.58)
GRADY	281002	MINCO	(50,433.28)
GRADY	281095	BRIDGE CREEK	(22,047.07)
GRADY	281097	TUTTLE	(181,604.77)
GRADY	281128	AMBER-POCASSET	(165,164.73)
HASKELL	311013	KINTA	(1,405.04)
			(3,799.56)

HASKELL	311020	STIGLER	(87,754.27)
HASKELL	311037	MCCURTAIN	(5,181.79)
HUGHES	321001	MOSS	(17,154.25)
HUGHES	321054	STUART	(3,205.44)
JACKSON	331001	NAVAJO	(19,804.03)
JACKSON	331014	DUKE	(6,023.01)
JOHNSTON	351020	TISHOMINGO	(20,452.19)
JOHNSTON	351037	WAPANUCKA	(19,201.02)
KINGFISHER	371003	LOMEGA	(25,185.63)
KINGFISHER	371007	KINGFISHER	(35,436.31)
KINGFISHER	371089	CASHION	(21,823.88)
LATIMER	391002	RED OAK	(17,473.61)
LE FLORE	401003	HEAVENER	(61,190.31)
LE FLORE	401020	PANAMA	(34,894.43)
LE FLORE	401029	POTEAU	(159,073.40)
LE FLORE	401049	WISTER	(45,734.16)
LE FLORE	401067	HOWE	(98,364.96)
LINCOLN	411001	CHANDLER	(37,603.43)
LINCOLN	411103	PRAGUE	(7,107.56)
LINCOLN	411134	AGRA	(10,507.94)
LOVE	431004	THACKERVILLE	(15,156.30)
LOVE	431016	MARIETTA	(56,339.45)
MAJOR	471001	RINGWOOD	(11,977.15)
MARSHALL	481002	MADILL	(121,122.24)
MARSHALL	481003	KINGSTON	(85,597.65)
MAYES	491001	PRYOR	(82,254.45)
MAYES	491002	ADAIR	(56,652.76)
MAYES	491016	SALINA	(6,126.66)
MAYES	491017	LOCUST GROVE	(7,737.57)
MAYES	491032	CHOUTEAU-MAZIE	(7,234.03)
MCCLAIN	441001	NEWCASTLE	(288,799.18)
MCCLAIN	441002	DIBBLE	(16,906.76)
MCCLAIN	441005	WASHINGTON	(115,338.13)
MCCLAIN	441010	WAYNE	(221.70)
MCCLAIN	441015	PURCELL	(56,203.30)
MCCLAIN	441029	BLANCHARD	(279,006.11)
MCCURTAIN	451074	BROKEN BOW	(9,795.45)
MURRAY	501001	SULPHUR	(18,305.58)
MURRAY	501010	DAVIS	(35,292.58)
MUSKOGEE	511003	FORT GIBSON	(62,108.21)
MUSKOGEE	511008	OKTAHA	(61,526.01)
MUSKOGEE	511029	HILLDALE	(81,879.47)
MUSKOGEE	511074	WARNER	(14,807.24)
MUSKOGEE	511088	PORUM	(611.80)
NOBLE	521004	FRONTIER	(3,713.24)
NOBLE	521006	MORRISON	(40,853.56)
NOWATA	531003	OKLAHOMA UNION	(53,350.98)

OKFUSKEE 541002	IMASON	(14,226.39)
OKFUSKEE 541031	WELEETKA	(2,527.58)
OKLAHOMA 551006	DEER CREEK	(1,388,175.62)
OKLAHOMA 551012	EDMOND	(2,438,401.64)
OKLAHOMA 551053	CROOKED OAK	(59,403.00)
OKLAHOMA 551088	BETHANY	(200,916.82)
OKMULGEE 561002	HENRYETTA	(2,349.73)
OKMULGEE 561003	MORRIS	(29,607.09)
OKMULGEE 561004	BEGGS	(63,915.76)
OKMULGEE 561005	PRESTON	(66,554.42)
OTTAWA 581001	WYANDOTTE	(30,219.71)
OTTAWA 581026	AFTON	(34,845.61)
OTTAWA 581031	FAIRLAND	(52,345.23)
PAYNE 601016	STILLWATER	(160,454.12)
PAYNE 601058	PERKINS-TRYON	(68,988.03)
PITTSBURG 611002	CANADIAN	(48,016.93)
PONTOTOC 621001	ALLEN	(13,596.54)
PONTOTOC 621019	ADA	(53,848.42)
PONTOTOC 621024	LATTA	(70,329.23)
PONTOTOC 621037	ROFF	(327.40)
POTTAWAT 631002	DALE	(58,054.81)
POTTAWAT 631003	BETHEL	(75,393.05)
POTTAWAT 631092	TECUMSEH	(65,574.35)
POTTAWAT 631112	ASHER	(811.94)
PUSHMATA 641001	RATTAN	(13,849.84)
PUSHMATA 641022	MOYERS	(6,633.79)
ROGER MIL 651015	SWEETWATER	(5,766.64)
ROGERS 661001	CLAREMORE	(45,764.69)
ROGERS 661004	OLOGAH-TALALA	(97,902.89)
ROGERS 661005	INOLA	(71,710.93)
ROGERS 661006	SEQUOYAH	(81,803.94)
ROGERS 661008	VERDIGRIS	(222,479.57)
SEMINOLE 671001	SEMINOLE	(34,300.19)
SEMINOLE 671007	VARNUM	(8,230.74)
SEMINOLE 671014	STROTHER	(9,806.93)
SEQUOYAH 681002	VIAN	(29,937.60)
SEQUOYAH 681003	MULDROW	(20,573.91)
SEQUOYAH 681004	GANS	(49,284.23)
SEQUOYAH 681007	CENTRAL	(41,478.97)
STEPHENS 691034	CENTRAL HIGH	(15,367.23)
TEXAS 701008	GUYMON	(197,421.81)
TEXAS 701023	HOOKEE	(39,690.37)
TEXAS 701060	GOODWELL	(9,199.78)
TULSA 721003	BROKEN ARROW	(789,497.51)
TULSA 721004	BIXBY	(899,342.35)
TULSA 721005	JENKS	(813,848.78)
TULSA 721008	COLLINSVILLE	(196,611.87)

TULSA	721007	SKIATOOK	(120,589.95)
TULSA	721009	UNION	(1,450,922.18)
TULSA	721010	BERRYHILL	(101,733.55)
TULSA	721011	OWASSO	(1,182,238.44)
TULSA	721013	GLENPOOL	(217,837.12)
WAGONER	731017	COWETA	(277,421.24)
WAGONER	731019	WAGONER	(29,688.48)
WASHITA	751011	CANUTE	(30,038.61)
WOODWARD	771002	MOORELAND	(10,396.63)

EXHIBIT 4-3

EXHIBIT 4-3

These are the totals the shrinking schools will receive because of the judgement.
 This does not include the plaintiff schools.

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County	Account	School	13 Month Total
			18,836,211.05
ADAIR	011004	WATTS	15,803.95
ADAIR	011025	STILWELL	26,612.60
ADAIR	011030	CAVE SPRINGS	12,728.40
ALFALFA	021001	BURLINGTON	5,534.08
ALFALFA	021046	CHEROKEE	15,441.29
ALFALFA	021093	TIMBERLAKE	73,372.44
ATOKA	031015	ATOKA	26,320.29
ATOKA	031026	CANEY	5,868.56
BEAVER	041022	BEAVER	60,156.79
BEAVER	041075	BALKO	10,649.15
BEAVER	041123	FORGAN	23,697.66
BEAVER	041128	TURPIN	33,588.00
BECKHAM	051006	ELK CITY	133,178.37
BECKHAM	051031	SAYRE	53,637.51
BECKHAM	051051	ERICK	23,749.53
BLAINE	061009	OKEENE	24,296.84
BLAINE	061042	WATONGA	88,600.93
BLAINE	061080	GEARY	68,585.97
BRYAN	071002	ROCK CREEK	9,282.13
BRYAN	071003	ACHILLE	52,548.46
CADDO	081011	HYDRO-EAKLY	40,340.18
CADDO	081012	LOOKEBA SICKLES	3,020.34
CADDO	081020	ANADARKO	67,622.95
CADDO	081033	CARNEGIE	52,614.10
CADDO	081056	BOONE-APACHE	28,339.75
CADDO	081064	CYRIL	8,442.07
CADDO	081086	GRACEMONT	38,731.61
CADDO	081160	CEMENT	34,859.48
CADDO	081167	FORT COBB-BROXTON	51,010.12
CADDO	081168	BINGER-ONEY	24,861.98
CANADIAN	091034	EL RENO	75,414.92
CANADIAN	091057	UNION CITY	7,960.44
CANADIAN	091076	CALUMET	10,469.97
CARTER	101019	ARDMORE	225,725.19
CARTER	101021	SPRINGER	6,981.03
CARTER	101043	WILSON	27,550.51
CARTER	101055	HEALDTON	88,650.64
CARTER	101074	FOX	52,748.56
CHEROKEE	111016	HULBERT	4,652.13
CHOCTAW	121002	FORT TOWSON	3,756.20
CHOCTAW	121039	HUGO	71,635.47
CIMARRON	131002	BOISE CITY	62,117.80
CIMARRON	131010	FELT	2,303.98

CIMARRON 131011	KEYES	25,441.43
CLEVELAND 141040	NOBLE	22,834.45
COAL 151001	COALGATE	12,041.82
COMANCHE 161002	INDIAHOMA	1,582.11
COMANCHE 161004	GERONIMO	5,100.83
COMANCHE 161008	LAWTON	1,072,863.14
COMANCHE 161132	CHATTANOOGA	8,593.87
COTTON 171001	WALTERS	16,879.23
COTTON 171101	TEMPLE	46,979.32
COTTON 171333	BIG PASTURE	23,006.29
CRAIG 181017	WELCH	15,043.25
CRAIG 181020	BLUEJACKET	18,117.07
CRAIG 181065	VINITA	69,761.09
CREEK 191005	MOUNDS	38,438.02
CREEK 191017	OLIVE	32,047.27
CREEK 191020	OILTON	19,149.26
CREEK 191021	DEPEW	24,289.21
CREEK 191031	KELLYVILLE	43,579.48
CREEK 191033	SAPULPA	158,768.21
CREEK 191039	DRUMRIGHT	42,009.98
CUSTER 201005	ARAPAHO-BUTLER	42,617.10
CUSTER 201007	THOMAS-FAY-CUSTER UNIFIED	73,892.18
CUSTER 201099	CLINTON	8,933.00
DELAWARE 211001	JAY	2,598.95
DELAWARE 211004	COLCORD	20,669.88
DELAWARE 211005	OAKS-MISSION	46,052.85
DEWEY 221005	VICI	13,198.46
DEWEY 221008	SEILING	32,914.32
DEWEY 221010	TALOGA	50,665.62
ELLIS 231002	FARGO	54,298.82
ELLIS 231003	ARNETT	15,068.15
ELLIS 231042	SHATTUCK	13,781.43
GARFIELD 241001	WAUKOMIS	40,800.42
GARFIELD 241018	KREMLIN-HILLSDALE	10,391.80
GARFIELD 241042	CHISHOLM	4,996.98
GARFIELD 241047	GARBER	29,620.84
GARFIELD 241056	PIONEER-PLEASANT VALE	29,914.92
GARFIELD 241057	ENID	60,114.94
GARFIELD 241085	DRUMMOND	22,797.72
GARFIELD 241094	COVINGTON-DOUGLAS	43,264.21
GARVIN 251005	PAOLI	7,733.52
GARVIN 251007	MAYSVILLE	59,971.10
GARVIN 251009	LINDSAY	7,946.13
GARVIN 251018	PAULS VALLEY	87,673.97
GARVIN 251038	WYNNEWOOD	54,027.75
GARVIN 251072	ELMORE CITY-PERNELL	48,520.05
GRADY 261001	CHICKASHA	187,627.89

GRADY	261051	NINNEKAH	14,517.42
GRADY	261056	ALEX	12,157.68
GRADY	261068	RUSH SPRINGS	23,122.84
GRADY	261089	VERDEN	18,130.32
GRANT	271054	MEDFORD	107,046.13
GRANT	271090	POND CREEK-HUNTER	13,647.72
GRANT	271095	DEER CREEK-LAMONT	27,155.80
GREER	281001	MANGUM	13,369.48
GREER	281003	GRANITE	17,064.40
HARMON	291066	HOLLIS	68,619.55
HARPER	301001	LAVERNE	35,050.63
HARPER	301004	BUFFALO	54,644.21
HASKELL	311043	KEOTA	6,934.02
HUGHES	321005	WETUMKA	16,113.33
HUGHES	321035	HOLDENVILLE	35,403.75
HUGHES	321048	CALVIN	26,718.53
JACKSON	331040	OLUSTEE-ELDORADO	34,763.76
JACKSON	331054	BLAIR	17,348.18
JEFFERSON	341001	RYAN	5,947.97
JEFFERSON	341014	RINGLING	31,507.07
JEFFERSON	341023	WAURIKA	52,686.29
JOHNSTON	351002	MILL CREEK	14,184.79
JOHNSTON	351028	MILBURN	9,570.11
JOHNSTON	351035	COLEMAN	2,997.08
KAY	381045	BLACKWELL	191,660.43
KAY	381087	TONKAWA	46,393.80
KAY	381125	NEWKIRK	15,842.48
KINGFISHER	371002	DOVER	40,689.74
KINGFISHER	371016	HENNESSEY	302.70
KINGFISHER	371105	OKARCHE	2,702.20
KIOWA	381001	HOBART	68,944.69
KIOWA	381003	MOUNTAIN VIEW-GOTEBO	65,707.48
KIOWA	381004	SNYDER	79,523.47
LATIMER	391001	WILBURTON	26,262.33
LATIMER	391003	BUFFALO VALLEY	25,809.40
LATIMER	391004	PANOLA	41,567.46
LE FLORE	401002	SPIRO	79,417.19
LE FLORE	401007	POCOLA	1,183.22
LE FLORE	401016	LE FLORE	24,351.68
LE FLORE	401017	CAMERON	52,286.08
LE FLORE	401026	BOKOSHE	14,430.07
LE FLORE	401052	TALIHINA	10,510.76
LE FLORE	401062	WHITESBORO	9,725.55
LE FLORE	401091	ARKOMA	24,150.41
LINCOLN	411003	DAVENPORT	10,257.49
LINCOLN	411004	WELLSTON	4,560.86
LINCOLN	411054	STROUD	19,331.05

LINCOLN	411095	MEEKER	9,680.05
LINCOLN	411105	CARNEY	449.04
LOGAN	421001	GUTHRIE	22,984.79
LOGAN	421002	CRESCENT	15,046.94
LOGAN	421003	MULHALL-ORLANDO	8,144.11
LOGAN	421014	COYLE	17,769.39
LOVE	431005	TURNER	983.59
MAJOR	471004	ALINE-CLEO	37,142.41
MAJOR	471084	FAIRVIEW	49,498.01
MAJOR	471092	CIMARRON	80,690.14
MCCURTAI	451005	IDABEL	163,732.54
MCCURTAI	451006	HAWORTH	19,346.38
MCCURTAI	451011	VALLIANT	28,791.76
MCCURTAI	451013	EAGLETOWN	33,689.35
MCCURTAI	451014	SMITHVILLE	32,025.80
MCCURTAI	451039	WRIGHT CITY	7,213.63
MCCURTAI	451071	BATTIEST	21,143.24
MCINTOSH	461001	EUFULA	15,244.89
MCINTOSH	461019	CHECOTAH	26,836.56
MCINTOSH	461027	MIDWAY	48,510.21
MCINTOSH	461064	HANNA	33,416.55
MUSKOGEE	511002	HASKELL	71,428.10
MUSKOGEE	511006	WEBBERS FALLS	24,024.02
MUSKOGEE	511046	BRAGGS	23,447.77
NOBLE	521001	PERRY	69,934.08
NOBLE	521002	BILLINGS	38,489.67
NOWATA	531040	NOWATA	71,969.68
NOWATA	531051	SOUTH COFFEYVILLE	4,072.49
OKFUSKEE	541014	PADEN	2,589.68
OKFUSKEE	541026	OKEMAH	10,439.33
OKFUSKEE	541054	GRAHAM-DUSTIN	139,918.98
OKLAHOM,	551001	PUTNAM CITY	1,349,624.62
OKLAHOM,	551003	LUTHER	17,853.12
OKLAHOM,	551004	CHOCTAW-NICOMA PARK	220,008.28
OKLAHOM,	551007	HARRAH	199,562.99
OKLAHOM,	551009	JONES	77,194.41
OKLAHOM,	551037	MILLWOOD	212,141.06
OKLAHOM,	551041	WESTERN HEIGHTS	199,256.00
OKLAHOM,	551089	OKLAHOMA CITY	1,195,142.22
OKMULGEE	561001	OKMULGEE	333,177.28
OKMULGEE	561006	SCHULTER	27,299.34
OKMULGEE	561007	WILSON	12,422.43
OKMULGEE	561008	DEWAR	689.99
OSAGE	571002	PAWHUSKA	216,522.87
OSAGE	571011	SHIDLER	71,208.35
OSAGE	571029	BARNSDALL	78,499.85
OSAGE	571030	WYNONA	58,870.41

OSAGE	571038	HOMINY	141,505.30
OSAGE	571050	PRUE	71,749.53
OSAGE	571090	WOODLAND	96,514.89
OTTAWA	581018	COMMERCE	62,159.99
OTTAWA	581023	MIAMI	75,442.40
PAWNEE	591001	PAWNEE	56,327.09
PAWNEE	591006	CLEVELAND	50,794.52
PAYNE	601003	RIPLEY	14,806.06
PAYNE	601067	CUSHING	131,198.59
PAYNE	601101	GLENCOE	4,359.67
PAYNE	601103	YALE	75,225.68
PITTSBURG	611001	HARTSHORNE	34,461.51
PITTSBURG	611011	HAILEYVILLE	50,622.21
PITTSBURG	611014	KIOWA	17,339.30
PITTSBURG	611017	QUINTON	16,369.20
PITTSBURG	611025	INDIANOLA	74,532.60
PITTSBURG	611028	CROWDER	6,084.66
PITTSBURG	611030	SAVANNA	39,659.27
PITTSBURG	611063	PITTSBURG	5,911.75
PITTSBURG	611080	MCALESTER	3,144.97
PONTOTOC	621009	VANOSS	9,188.70
PONTOTOC	621016	BYNG	1,093.89
PONTOTOC	621030	STONEWALL	23,787.13
POTTAWA	631001	MCCLOUD	9,751.42
POTTAWA	631004	MACOMB	29,487.54
POTTAWA	631005	EARLSBORO	8,905.79
POTTAWA	631093	SHAWNEE	95,162.48
POTTAWA	631115	WANETTE	54,280.14
POTTAWA	631117	MAUD	43,593.28
PUSHMAT	641010	CLAYTON	26,658.80
PUSHMAT	641013	ANTLERS	24,231.88
ROGER MII	651003	LEEDEY	2,439.18
ROGER MII	651006	REYDON	17,738.38
ROGER MII	651007	CHEYENNE	8,226.93
ROGER MII	651066	HAMMON	13,622.42
ROGERS	661002	CATOOSA	122,353.67
ROGERS	661003	CHELSEA	61,494.83
ROGERS	661007	FOYIL	5,796.67
SEMINOLE	671002	WEWOKA	80,092.05
SEMINOLE	671003	BOWLEGS	21,926.36
SEMINOLE	671004	KONAWA	25,492.04
SEMINOLE	671006	NEW LIMA	480.00
SEMINOLE	671010	SASAKWA	5,076.30
SEMINOLE	671015	BUTNER	31,672.19
SEQUOYAH	681001	SALLISAW	5,525.17
SEQUOYAH	681005	ROLAND	29,924.52
SEQUOYAH	681006	GORE	25,578.05

STEPHENS 691001	DUNCAN	309,940.81
STEPHENS 691002	COMANCHE	60,239.24
STEPHENS 691003	MARLOW	51,037.99
STEPHENS 691015	VELMA-ALMA	66,131.54
STEPHENS 691021	EMPIRE	29,200.62
STEPHENS 691042	BRAY-DOYLE	43,586.13
TEXAS 701001	YARBROUGH	10,154.61
TEXAS 701015	HARDESTY	7,660.74
TEXAS 701053	TYRONE	18,125.87
TEXAS 701061	TEXHOMA	3,455.81
TILLMAN 711008	TIPTON	37,623.97
TILLMAN 711009	DAVIDSON	32,624.86
TILLMAN 711158	FREDERICK	99,732.86
TILLMAN 711249	GRANDFIELD	21,282.34
TULSA 721001	TULSA	3,466,250.78
TULSA 571008	SPERRY	54,449.79
TULSA 721014	LIBERTY	48,850.41
WAGONER 731001	OKAY	19,968.64
WAGONER 731365	PORTER CONSOLIDATED	2,680.56
WASHINGT 741004	COPAN	109,549.69
WASHINGT 741007	DEWEY	41,664.21
WASHINGT 741018	CANEY VALLEY	49,820.02
WASHINGT 741030	BARTLESVILLE	555,238.17
WASHITA 751001	SENTINEL	34,024.57
WASHITA 751010	BURNS FLAT-DILL CITY	18,489.57
WASHITA 751078	CORDELL	74,239.63
WOODS 761001	ALVA	133,767.89
WOODS 761003	WAYNOKA	26,018.29
WOODS 761006	FREEDOM	22,475.66
WOODWAI 771001	WOODWARD	131,177.19
WOODWAI 771003	SHARON-MUTUAL	1,459.40
WOODWAI 771005	FORT SUPPLY	10,981.55

EXHIBIT 4-4

EXHIBIT 4-4

Using the FY18 (through 04/18) monthly averages, two schools do not receive enough to cover a 6 month recoup
091022 Piedmont would require at least 7 months.

551006 Deer Creek would require at least 8 months.

These two schools in particular benefit from the ADA method since they had so much relative growth after Hold
Harmless began and they were not receiving MV payments based on current populations.

There are other schools that would receive significantly smaller payments during recoupment than they have
recently received under ADA. 22 would receive less than half their FY18 (through 04/18) average amount using

ment period.

EXHIBIT 5-1

EXHIBIT 5-1



Gary Watts <gary.watts@sandites.org>

RE: April Apportionment

1 message

Jorie Welch <jwelch@tax.ok.gov>
To: Gary Watts <gary.watts@sandites.org>
Cc: "Alan R. Leizear" <alan.leizear@tax.ok.gov>

Thu, Apr 27, 2017 at 4:06 PM

Mr. Watts;

I apologize that it has taken me so long to respond. I wanted to make sure I understood what has transpire and was able to explain.

January collections apportioned in February contained a significant overstatement of revenue due to an error in reporting from an agent. The January overstated collections were apportioned in February.

Correction for the overstatement of January collections was necessary. April 2017 (March collections) exceeded its April 2016 (March collections) counterpart so each apportionment was originally calculated so that each school would receive what they had gotten as deposits in April 2016, with the overage of \$173,274.27 apportioned against their ADAs. These original calculation amounts were then netted with the February 2017 (January collections) deposit adjustment and the March 2017 (February collections) adjustment amounts.

When these adjustment amounts were netted with the original calculated amounts, the result was that some of the schools' disbursements were more and some were less than when compared to what they had received as deposits for their April 2016 (March collections) amounts.

I was advised, with respect to the two school districts in Ellis County, Gage was annexed into Fargo as of April 2016.

Please contact me if you have any further questions.

Marjorie Welch

First Deputy General Counsel

Oklahoma Tax Commission

EXHIBIT 5-1

100 N. Broadway, Ste. 1500

Oklahoma City, OK 73102-8601

Phone: 405/522-9460

Fax: 405/601-7144

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From: Gary Watts [mailto:gary.watts@sandites.org]

Sent: Monday, April 24, 2017 2:25 PM

To: Jorie Welch

Cc: Alan R. Leizear

Subject: Re: April Apportionment

Thank you Ms Welch. Sand Springs Superintendent Durkee will likely report on this at a meeting of Tulsa County superintendents this Friday with the State Superintendent in attendance. Clarity before then would be helpful

Gary Watts

On Monday, April 24, 2017, Jorie Welch <jwelch@tax.ok.gov> wrote:

Mr. Watts;

This is to confirm that you emails have been received. I have reached out to get an explanation for you. I will provide it as soon as it is received and reviewed.

Marjorie Welch

First Deputy General Counsel

Oklahoma Tax Commission

100 N. Broadway, Ste. 1500

Oklahoma City, OK 73102-8601

Phone: 405/522-9460

Fax: 405/601-7144

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From: Gary Watts [mailto:gary.watts@sandites.org]
Sent: Wednesday, April 19, 2017 3:22 PM
To: Jorie Welch; Alan R. Leizear
Subject: Re: April Apportionment

Jorie, Alan,

Please confirm you received this message last week. Thanks.

Gary

On Wednesday, April 12, 2017, Gary Watts <gary.watts@sandites.org> wrote:

Jorie,

In updating my data on MVC I notice that this month's total apportionment, April 2017, exceeds the total for April 2016 but not all districts received at least what they did in April 2016. Please see the attached sheet. It also shows how February 2017 exceeded February 2016 and all districts (save two in Ellis County) received more. The two districts in Ellis County appear affected by a consolidation I assume took place, but the rest show what I'm concerned about.

Gary

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EXHIBIT 5-2

EXHIBIT 5-2



Gary Watts <gary.watts@sandites.org>

Re: April Collections

1 message

Gary Watts <gary.watts@sandites.org>
To: Jorie Welch <jwelch@tax.ok.gov>

Fri, Apr 28, 2017 at 11:56 AM

Now I see that the reporting error was attributing the \$2.1 million to January instead of February. The adjustments to April now make sense. Of course I need to check my clients' calculations but don't expect to contact you again about this. Thank you for your help.

On Friday, April 28, 2017, Gary Watts <gary.watts@sandites.org> wrote:
Thanks; didn't see this before my last reply. Will look it over soon.

On Fri, Apr 28, 2017 at 10:46 AM, Jorie Welch <jwelch@tax.ok.gov> wrote:

Mr. Watts;

The amount affecting education is \$2,115,200.93. The Spreadsheet attached was prepared by Management Services. It contains a tab marked 'ADA List' which is a Dept of Education (DOE) spreadsheet that is provided each year to update the Average Daily Attendance numbers for all of the schools. The ADA amounts from this DOE spreadsheet are used to determine the 'Corrected:' amounts for each school in columns F and J. Sheet 1 reflects the adjustments.

Should you have any questions, please do not hesitate to contact me.

Marjorie Welch

First Deputy General Counsel

Oklahoma Tax Commission

100 N. Broadway, Ste. 1500

Oklahoma City, OK 73102-8601

Phone: 405/522-9460

Fax: 405/601-7144

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EXHIBIT 5-2

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From: Gary Watts [mailto:gary.watts@sandites.org]
Sent: Friday, April 28, 2017 6:45 AM
To: Jorie Welch
Cc: Alan R. Leizear
Subject: April Collections

Ms. Welch,

I do not follow your explanation sufficiently to confirm that apportionments to date are correct as the OTC construes the statute. I think I would understand more clearly if you could provide the calculations that determined the April apportionments. Below in bold are examples of what confuses me within your explanation.

"January collections apportioned in February contained a significant overstatement of revenue due to an error in reporting from an agent. The January overstated collections were apportioned in February. From the OTC online record the amount \$23,172,208 is shown as the total apportionment. What is the corrected amount? Correction for the overstatement of January collections was necessary. April 2017 (March collections) exceeded its April 2016 (March collections) counterpart so each apportionment was originally calculated so that each school would receive what they had gotten as deposits in April 2016, with the overage of \$173,274.27 apportioned against their ADAs. The online record shows the April total as \$21,673,194 which conforms to what you are saying here; but how is the "overstatement" for January collections corrected if total apportionments for April are not reduced, i.e. less than March collections? These original calculation amounts were then netted with the February 2017 (January collections) deposit adjustment and the March 2017 (February collections) adjustment amounts. Why is March involved when the overstatement was for February apportionment only?"

When these adjustment amounts were netted with the original calculated amounts, the result was that some of the schools' disbursements were more and some were less than when compared to what they had received as deposits for their April 2016 (March collections) amounts." The online record shows total to date through April as \$199,181,566 which numerically includes all of the February total. Is that the correct total? If so, when was the January overstatement taken out?

I'm probably missing something obvious here but again ask to have the calculations that explain April apportionments so I can follow what has been done.

Thanks,
Gary Watts

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EXHIBIT 6

EXHIBIT 6

14040	Nc	703,7196	90,481.50	(10,791.16)	71,072.96	80,197.03	5,089.07	1,391.43	92,243.34	97,041.25	97,041.25	0.00
14057	Lr	43,929.84	35,712.98	(4,806.11)	28,997.38	31,668.81	5,099.47	1,391.43	34,718.12	33,523.64	33,523.64	0.00
14070	Lr	20,010.14	23,888.17	(1,752.47)	31,207.63	35,309.62	4,001.79	1,391.43	46,011.67	41,320.98	43,530.99	0.00
15001	Cg	6,461.20	23,999.53	(2,812.21)	18,286.12	20,779.63	2,390.51	666.27	27,008.27	26,547.57	26,547.57	0.00
16001	Cd	6,780.05	8,780.05	(1,687.15)	4,800.02	7,781.09	881.37	194.82	4,657.27	8,153.04	8,153.04	0.00
16003	Cd	6,597.60	6,597.60	(5,802.59)	47,328.61	53,603.75	6,275.14	272.28	36,285.54	36,558.09	36,558.09	0.00
16004	Sm	14,008.80	13,553.89	(892.73)	5,468.24	6,202.16	702.92	(189.81)	7,688.51	7,458.70	7,458.70	0.00
16008	La	52,287.27	10,463.27	(1,452.67)	10,464.02	9,272.87	1,341.42	(189.81)	12,588.68	12,477.44	12,477.44	0.00
16009	La	52,287.27	46,879.50	(83,083.87)	380,199.11	416,390.43	1,051.59	(111.25)	620,466.72	620,466.72	620,466.72	0.00
16016	Eu	16,872.06	15,396.69	(1,575.97)	10,099.98	11,342.53	1,346.62	(129.33)	14,657.17	14,627.78	14,627.78	0.00
16017	Ch	8,010.84	72,612.13	(5,834.07)	9,704.08	64,368.03	7,263.97	1,495.90	37,121.56	38,591.36	38,591.36	0.00
16018	Ch	26,884.85	23,698.94	(7,254.40)	9,704.08	20,456.58	7,911.80	1,495.90	8,715.48	8,715.48	8,715.48	0.00
17101	Te	6,284.28	5,959.01	(3,013.61)	4,067.22	5,242.50	596.58	(695.19)	24,952.75	24,952.75	24,952.75	0.00
17102	Te	6,284.28	6,583.66	(7,004.87)	6,728.95	6,913.29	184.30	(43.33)	9,057.61	10,934.79	10,934.79	0.00
18006	Ke	22,000.50	13,131.82	(2,182.68)	15,964.04	17,125.44	1,161.16	(43.33)	14,242.42	12,401.00	12,401.00	0.00
18020	Rh	12,107.10	7,110.72	(9,732.24)	6,702.47	8,664.04	1,961.52	770.58	17,249.74	17,249.74	17,249.74	0.00
18065	Rh	57,025.85	49,464.61	(5,300.18)	38,872.86	43,841.82	4,968.56	1,239.18	6,688.25	6,688.25	6,688.25	0.00
19002	Bi	60,700.82	56,185.21	(7,805.94)	34,872.86	44,631.40	5,761.18	(2,639.18)	50,470.28	50,470.28	50,470.28	0.00
19003	Mn	20,444.39	16,659.91	(1,905.41)	14,504.95	16,512.18	5,121.97	1,806.78	18,051.43	18,051.43	18,051.43	0.00
19017	Or	13,175.12	11,311.50	(1,817.67)	14,620.78	16,025.68	1,406.25	58.91	51,087.29	51,087.29	51,087.29	0.00
19018	Or	28,371.84	23,768.26	(1,563.68)	16,678.80	21,066.44	4,387.55	(841.29)	15,160.14	14,487.76	14,487.76	0.00
19020	Os	9,274.98	9,215.38	(1,593.60)	7,242.14	7,106.64	2,387.50	(841.29)	16,697.39	16,697.39	16,697.39	0.00
19021	Os	13,427.23	12,052.35	(1,174.88)	9,471.64	10,682.32	1,210.68	416.10	12,183.28	12,183.28	12,183.28	0.00
19033	Se	38,677.47	33,711.57	(4,355.50)	26,481.09	29,879.46	3,398.37	(1,684.21)	15,410.05	14,286.01	14,286.01	0.00
19034	Se	141,648.84	125,658.77	(15,390.87)	80,720.13	111,370.70	30,748.57	(3,268.50)	130,381.30	147,118.00	147,118.00	0.00
20005	Dr	20,800.20	17,994.41	(1,808.69)	14,411.36	15,908.92	1,497.56	(981.29)	22,271.00	18,568.30	18,568.30	0.00
20006	Tf	14,407.89	14,378.20	(1,298.36)	11,288.47	12,763.18	1,474.31	(643.04)	14,218.68	14,218.68	14,218.68	0.00
20026	W	17,464.23	15,482.33	(6,790.91)	10,670.70	11,722.40	1,055.72	(841.29)	11,767.18	11,767.18	11,767.18	0.00
20027	W	80,713.78	73,912.88	(6,290.91)	59,084.17	66,031.55	7,419.64	(841.29)	72,272.00	72,272.00	72,272.00	0.00
20029	Cl	82,883.32	74,466.66	(4,364.66)	42,615.08	48,062.14	5,447.09	(707.98)	54,425.02	54,425.02	54,425.02	0.00
21001	Jn	54,228.22	27,017.22	(8,319.11)	6,149.18	69,317.32	7,956.01	(1,587.55)	61,201.72	60,744.87	60,744.87	0.00
21002	Fr	8,728.94	18,788.95	(1,304.53)	214,064.18	246,044.72	2,278.56	(582.55)	20,744.87	20,744.87	20,744.87	0.00
21003	Ca	20,292.42	18,788.95	(8,981.31)	11,504.59	12,863.15	1,887.38	(582.55)	13,511.89	13,511.89	13,511.89	0.00
21004	Ca	8,794.23	10,931.10	(1,404.08)	6,800.96	7,888.81	893.85	(1,037.81)	22,007.51	22,007.51	22,007.51	0.00
22005	Vr	12,044.65	14,500.72	(1,582.33)	8,620.75	9,621.16	1,090.41	(1,531.91)	11,478.75	11,478.75	11,478.75	0.00
22006	Vr	14,500.72	14,500.72	(1,582.33)	11,228.58	12,675.10	1,446.52	(633.31)	16,716.16	16,716.16	16,716.16	0.00
22007	Ta	2,964.82	3,291.33	(524.40)	2,568.87	2,917.19	330.62	(85.02)	7,649.33	7,649.33	7,649.33	0.00
23001	Pa	10,280.86	8,298.41	(1,111.44)	7,024.49	7,927.35	897.87	(723.60)	13,918.32	13,918.32	13,918.32	0.00
23003	Am	7,986.81	6,296.62	(723.19)	5,499.18	6,156.98	697.80	(23.39)	8,241.38	8,241.38	8,241.38	0.00
23019	Ga	0.00	0.00	0.00	0.00	10,231.65	1,166.40	(858.43)	12,991.70	11,833.29	11,833.29	0.00
23042	Sn	11,611.58	13,669.58	(647.04)	10,742.80	12,113.06	1,370.26	(781.32)	19,017.67	18,743.68	18,743.68	0.00
24001	Wn	14,317.02	10,305.58	(3,722.81)	8,090.40	9,138.11	1,047.71	(664.92)	11,202.03	11,202.03	11,202.03	0.00
24018	Wn	10,577.87	13,712.25	(3,600.61)	28,681.83	29,880.08	3,098.43	(214.18)	35,093.40	34,878.02	34,878.02	0.00
24024	Ga	13,460.49	12,151.24	(1,329.51)	8,848.28	10,168.90	1,320.62	(108.64)	15,328.25	15,328.25	15,328.25	0.00
24057	Pt	19,804.74	16,005.29	(4,488.54)	14,448.91	15,394.56	1,208.65	(313.20)	21,318.21	21,318.21	21,318.21	0.00
24058	En	280,046.20	256,497.69	(24,367.27)	201,752.02	227,340.69	31,575.49	(340.88)	268,908.47	268,908.47	268,908.47	0.00
24085	Di	17,416.02	10,066.00	(1,352.02)	7,910.62	8,921.76	1,011.14	(340.88)	12,758.51	12,758.51	12,758.51	0.00
24094	Cg	8,782.85	8,804.18	(9,918.67)	6,808.87	7,805.38	884.39	(734.79)	13,173.16	13,173.16	13,173.16	0.00
25002	Sh	27,899.44	23,140.92	(2,558.21)	16,085.89	20,510.41	4,425.52	(240.12)	19,180.12	19,180.12	19,180.12	0.00
25003	Sh	8,111.78	8,116.35	(1,058.41)	6,978.44	7,193.71	210.61	(850.76)	9,460.88	9,460.88	9,460.88	0.00
25007	Ni	12,994.50	11,034.32	(1,359.37)	8,021.00	9,781.71	1,760.61	(850.76)	17,705.84	17,705.84	17,705.84	0.00
25009	Lin	48,276.65	46,408.76	(4,867.83)	31,794.24	38,501.33	4,707.11	(808.75)	49,241.70	48,492.92	48,492.92	0.00
25018	Pa	47,573.67	41,443.51	(1,310.06)	34,141.18	38,501.33	4,361.95	(1,616.64)	29,397.15	29,397.15	29,397.15	0.00
25038	Wv	78,347.73	72,187.08	(12,460.67)	17,886.27	20,285.41	2,299.04	(1,616.64)	29,397.15	29,397.15	29,397.15	0.00
25039	Wv	78,347.73	72,187.08	(12,460.67)	17,886.27	20,285.41	2,299.04	(1,616.64)	29,397.15	29,397.15	29,397.15	0.00
26001	Ch	17,886.49	16,377.66	(1,090.84)	13,027.96	14,633.19	1,605.24	(524.83)	19,667.12	19,667.12	19,667.12	0.00
26002	Mi	45,278.05	77,009.49	(9,188.50)	60,986.73	68,328.46	7,343.73	(4,444.83)	99,607.12	99,607.12	99,607.12	0.00
26003	Mi	70,882.96	19,314.20	(2,488.75)	14,982.78	16,328.46	1,345.68	(699.10)	16,519.86	16,519.86	16,519.86	0.00
26005	Nn	15,447.62	17,458.49	(7,312.03)	13,702.19	15,473.97	1,771.73	(849.07)	18,270.79	18,270.79	18,270.79	0.00
26006	Nn	15,447.62	18,438.05	(1,638.84)	14,409.63	16,364.28	1,954.65	(294.36)	22,186.45	22,186.45	22,186.45	0.00
26008	Mu	20,009.88	18,438.05	(4,381.87)	14,409.63	16,364.28	1,954.65	(294.36)	22,186.45	22,186.45	22,186.45	0.00
26009	Tu	86,906.38	60,746.00	(1,361.84)	38,204.33	41,204.87	4,000.54	(771.80)	21,777.58	21,777.58	21,777.58	0.00
26017	Vu	8,390.77	60,746.00	(657.18)	47,302.02	51,417.00	4,114.98	(771.80)	44,139.84	44,139.84	44,139.84	0.00
26018	Vu	8,390.77	60,746.00	(657.18)	47,302.02	51,417.00	4,114.98	(771.80)	44,139.84	44,139.84	44,139.84	0.00
26019	Vu	8,390.77	60,746.00	(657.18)	47,302.02	51,417.00	4,114.98	(771.80)	44,139.84	44,139.84	44,139.84	0.00
27004	An	17,311.48	15,336.20	(1,005.29)	12,580.42	13,591.88	895.83	(1,121.51)	15,254.14	15,254.14	15,254.14	0.00
27005	Mb	9,904.38	9,918.02	(1,005.29)	12,580.42	13,591.88	895.83	(1,121.51)	15,254.14	15,254.14	15,254.14	0.00
27090	Po	12,430.40	11,330.87	(1,005.29)	12,580.42	13,591.88	895.83	(1,121.51)	15,254.14	15,254.14	15,254.14	0.00
27095	La	6,424.82	5,870.70	(594.22)	4,813.64	5,203.36	589.72	(35.49)	12,097.20	12,097.20	12,097.20	0.00

Amended into Page

281001	Ma	34,720.99	24,054.36	(856.43)	18,811.50	21,328.79	2,447.29	1,769.95	14,566.29	26,447.24	0.00
281002	Gr	10,164.37	8,878.68	(1,285.69)	7,096.20	7,958.20	901.94	(263.58)	10,778.61	10,778.61	0.00
281003	Hr	18,103.78	17,288.14	(815.64)	13,990.73	15,203.44	1,212.71	(121.23)	20,996.93	20,996.93	0.00
300004	Lp	17,864.30	16,113.43	(1,750.87)	12,684.73	14,283.55	1,618.82	(121.03)	23,895.69	23,895.69	0.00
310013	Er	10,941.27	6,958.80	(3,982.47)	7,604.50	899.55	6,705.95	(320.54)	17,182.25	17,018.32	(0.00)
310020	Sb	4,026.19	4,213.58	(187.39)	5,985.49	5,985.49	6,784.47	431.98	12,836.42	12,579.18	(0.00)
310029	Mb	4,026.19	4,213.58	(187.39)	5,985.49	5,985.49	6,784.47	431.98	6,422.64	6,855.60	0.00
310034	Kp	4,026.19	4,213.58	(187.39)	5,985.49	5,985.49	6,784.47	431.98	36,919.71	36,948.93	0.00
320005	Hc	10,378.52	14,884.02	(4,505.50)	6,804.44	1,470.76	1,470.76	1,403.90	15,773.03	7,281.87	(0.00)
320006	Wc	14,884.02	14,884.02	0.00	11,696.54	11,696.54	8,882.53	7,541.72	16,897.99	16,836.93	(0.00)
320007	Hg	27,079.96	35,706.76	(8,626.80)	24,801.08	31,647.83	1,498.45	(4,824.32)	7,541.72	6,899.01	(0.00)
320008	Sc	4,919.15	4,919.15	0.00	3,986.79	3,986.79	5,586.79	1,222.56	40,403.89	42,126.67	0.00
330004	SA	10,174.32	9,032.21	(1,142.11)	7,989.14	4,959.88	4,941.14	(687.80)	4,334.86	4,334.86	0.00
330005	NA	16,899.73	15,895.57	(1,004.16)	12,819.19	8,026.69	9,671.30	(1,844.81)	15,205.70	4,272.06	(0.00)
330006	DA	17,874.69	12,656.68	(5,218.01)	10,824.61	5,409.96	6,124.45	(574.68)	9,046.18	8,861.37	(0.00)
330007	EA	2,897.03	2,257.20	(639.83)	1,079.46	5,409.96	11,504.55	5,939.99	15,230.39	15,230.39	0.00
330008	AA	5,497.92	4,819.24	(678.68)	1,738.89	2,000.67	2,264.74	(533.70)	16,817.24	16,477.54	(0.00)
330009	BA	10,660.02	9,812.34	(847.68)	4,287.22	4,271.47	4,844.20	(643.88)	6,463.84	6,463.84	0.00
330010	CA	9,401.83	6,031.24	(3,370.59)	7,111.72	8,064.39	9,144.75	(1,444.75)	12,434.07	12,434.07	0.00
330011	BA	14,111.80	11,797.76	(2,314.04)	6,536.72	7,115.12	7,115.12	70.76	3,895.62	3,895.62	0.00
330012	WA	6,224.19	13,097.01	(6,872.82)	10,843.32	12,228.32	1,315.61	(143.90)	18,460.73	18,931.49	(0.00)
330013	MA	14,578.32	5,422.05	(9,156.27)	10,232.82	4,806.06	5,414.69	(1,438.90)	20,597.74	20,403.84	(0.00)
330014	TA	54,941.59	30,000.02	(24,941.57)	24,047.80	27,121.60	3,073.80	(1,273.73)	7,286.39	7,435.39	(0.00)
330015	MA	6,504.46	6,661.50	(157.04)	5,904.26	5,904.26	6,691.15	145.00	30,285.53	29,011.80	(0.00)
330016	MA	8,962.03	5,813.80	(3,148.23)	5,236.11	5,161.79	5,851.51	(708.22)	6,131.09	8,837.30	(0.00)
330017	WA	9,014.47	8,150.33	(864.14)	6,406.14	7,223.85	8,111.71	(395.21)	6,415.72	6,072.30	(0.00)
330018	WA	4,920.11	43,809.17	(38,889.06)	34,428.66	13,829.52	13,829.52	(65.41)	7,050.60	7,005.17	(0.00)
330019	WA	152,404.86	163,993.90	(11,589.04)	129,617.64	16,673.34	4,409.68	(1,710.36)	59,506.84	58,796.68	(0.00)
330020	TA	25,006.54	23,847.20	(1,159.34)	18,347.86	10,639.24	16,719.54	(1,731.01)	195,914.76	194,131.75	(0.00)
330021	DA	9,298.34	27,393.35	(18,095.01)	21,528.33	2,315.25	2,315.25	(619.34)	26,259.40	26,166.81	(0.00)
330022	DA	5,576.06	5,576.06	0.00	4,382.89	1,282.12	2,751.89	(619.34)	27,669.72	27,050.38	(0.00)
330023	MA	6,689.86	8,589.86	(1,900.00)	9,196.03	8,624.21	8,602.12	(200.55)	2,669.12	2,700.38	(0.00)
330024	MA	47,776.34	47,776.34	0.00	37,946.32	42,345.52	792.18	9,707.91	9,707.91	9,707.91	0.00
330025	MA	22,002.23	23,887.72	(1,885.49)	20,480.32	4,799.10	4,799.10	981.80	45,189.23	46,171.03	0.00
330026	MA	18,066.36	16,004.64	(2,061.72)	12,734.51	14,884.40	3,007.13	4,243.33	30,670.72	30,670.72	0.00
330027	MA	20,841.67	15,577.92	(5,263.75)	11,577.92	1,688.05	1,688.05	4,243.33	28,774.74	28,774.74	0.00
330028	MA	3,031.16	4,037.23	(1,006.07)	4,619.49	10,212.55	1,158.00	5,959.26	14,816.32	14,816.32	0.00
330029	MA	6,052.36	6,052.36	0.00	5,072.76	33,241.45	2,514.05	(1,546.64)	33,156.42	33,156.42	0.00
330030	MA	9,318.00	14,048.54	(4,730.54)	9,418.08	7,172.65	8,122.91	(1,915.63)	14,926.74	14,926.74	0.00
330031	MA	16,911.84	14,048.54	(2,863.30)	11,344.74	12,866.13	2,866.25	(4,271.59)	22,331.16	22,331.16	0.00
330032	MA	9,986.99	9,593.96	(393.03)	8,503.38	8,503.38	9,932.69	(33,927.69)	33,045.50	33,045.50	0.00
330033	MA	6,067.77	4,634.71	(1,433.06)	7,172.09	3,642.30	4,107.86	6,611.72	4,977.79	4,977.79	0.00
330034	MA	6,071.20	4,956.30	(1,114.90)	3,642.30	4,428.35	4,651.56	(506.50)	7,562.23	7,055.73	(0.00)
330035	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330036	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330037	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330038	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330039	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330040	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330041	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330042	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330043	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330044	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330045	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330046	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330047	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330048	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330049	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330050	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330051	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330052	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330053	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330054	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330055	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330056	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330057	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330058	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330059	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330060	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330061	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330062	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330063	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330064	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330065	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330066	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330067	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330068	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330069	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330070	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330071	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330072	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)
330073	MA	29,581.14	35,408.12	(5,826.98)	27,028.84	11,381.69	9,011.88	(1,369.31)	9,577.15	9,361.04	(0.00)

56008	De	146347	13.37704	(1,246.451)	1037206	11,856.42	1,343.774	37.31	13,810.33	13,807.62	13,907.62	(0.00)
57008	Sp	78641.14	25,984.97	(13,578.171)	20,062.73	23,013.44	2,608.21	(967.96)	44,826.35	43,828.39	43,828.39	(0.00)
57009	Pa	43343.96	34,346.96	(4,997.00)	36,156.93	33,977.33	3,832.00	(1,943.60)	43,654.51	40,469.51	40,469.51	(0.00)
57010	Bb	5387.60	7,723.88	(883.52)	6,000.71	6,801.56	770.65	(127.62)	13,723.21	13,599.54	13,599.54	(0.00)
57011	Sb	5465.86	12,851.67	(1,559.93)	10,020.50	12,136.36	1,395.86	(648.05)	20,629.50	20,629.50	20,629.50	(0.00)
57012	Hc	4,183.80	3,620.20	(582.82)	2,807.99	3,199.72	362.63	(720.18)	6,651.82	6,401.63	6,401.63	(0.00)
57013	Hc	20,803.97	19,096.83	(1,207.12)	18,807.74	16,926.04	1,918.50	(211.18)	31,346.62	31,548.02	31,548.02	(0.00)
57014	Wn	11,306.17	14,313.79	(1,206.39)	10,000.37	9,031.00	1,025.69	(142.76)	16,504.98	16,322.22	16,322.22	(0.00)
58001	Wn	15,603.24	25,809.66	(1,214.78)	11,248.46	12,863.15	1,437.79	(57.72)	22,998.05	22,998.05	22,998.05	(0.00)
58011	Wn	20,023.94	20,165.30	(2,036.42)	20,343.19	17,873.04	2,503.61	(621.67)	23,694.80	23,074.80	23,074.80	(0.00)
58012	Qc	22,221.72	24,534.14	(2,208.73)	15,647.41	23,290.57	2,868.29	(50.00)	37,398.53	37,398.53	37,398.53	(0.00)
58013	Ma	26,793.87	24,534.14	(1,157.69)	54,206.56	67,376.75	6,662.56	(3,212.59)	36,149.00	33,684.36	33,684.36	(0.00)
58014	Ma	87,175.67	76,017.98	(2,059.02)	14,067.92	15,869.09	7,938.10	(7,202.63)	87,205.95	85,311.55	85,311.55	(0.00)
58015	Pa	19,668.84	17,900.96	(1,077.85)	14,314.56	14,388.81	1,318.68	(4,702.63)	15,763.64	15,080.70	15,080.70	(0.00)
59001	Pa	21,793.12	23,274.65	(2,077.85)	16,314.56	16,388.81	2,073.53	(9,945.65)	15,351.55	16,758.29	16,758.29	(0.00)
59002	Pa	28,878.11	29,274.65	(3,451.22)	14,807.46	20,584.81	5,744.82	(1,118.29)	57,457.11	57,457.11	57,457.11	(0.00)
59003	Rf	67,934.12	53,198.21	(1,035.12)	32,067.20	33,809.75	1,544.22	(457.33)	47,323.67	47,323.67	47,323.67	(0.00)
59006	Rf	18,440.25	13,988.21	(1,035.12)	19,806.90	20,500.91	2,030.91	(3,159.62)	19,078.81	19,078.81	19,078.81	(0.00)
60001	Pe	218,261.04	202,127.18	(1,2143.90)	158,806.90	179,141.81	4,971.04	(838.78)	43,994.52	43,994.52	43,994.52	(0.00)
60005	Pe	53,616.44	48,487.18	(4,121.26)	46,809.63	52,228.74	5,919.31	(590.86)	19,078.81	19,078.81	19,078.81	(0.00)
60007	Gk	12,331.94	11,674.45	(659.44)	10,800.43	10,347.37	1,177.71	(513.22)	75,303.82	75,303.82	75,303.82	(0.00)
60101	Gk	18,339.82	15,240.38	(1,324.44)	10,503.41	12,239.09	1,393.68	(3,402.67)	12,860.02	12,860.02	12,860.02	(0.00)
61001	Hs	16,328.48	18,984.87	(3,186.48)	18,829.04	22,353.49	2,333.41	(5,333.06)	22,906.77	22,906.77	22,906.77	(0.00)
61002	Hs	12,838.48	11,448.12	(1,252.18)	8,998.79	13,281.12	1,505.21	(3,321.90)	10,823.65	10,823.65	10,823.65	(0.00)
61003	Hs	17,004.34	15,482.37	(889.08)	8,998.79	9,046.46	1,428.98	(3,321.90)	17,210.36	17,210.36	17,210.36	(0.00)
61004	Hs	17,004.34	15,482.37	(889.08)	8,998.79	9,046.46	1,428.98	(3,321.90)	17,210.36	17,210.36	17,210.36	(0.00)
61007	Qc	17,004.34	15,482.37	(889.08)	8,998.79	9,046.46	1,428.98	(3,321.90)	17,210.36	17,210.36	17,210.36	(0.00)
61008	Hs	16,758.76	15,375.28	(845.43)	3,688.30	6,392.82	724.52	(1,114.64)	12,852.17	12,852.17	12,852.17	(0.00)
61009	Hs	15,961.27	13,831.87	(1,667.81)	9,400.07	12,003.02	1,544.47	(79.10)	15,673.06	15,673.06	15,673.06	(0.00)
61010	Hs	5,078.00	5,141.73	(63.15)	4,000.77	4,552.77	1,201.52	(185.76)	16,635.81	16,635.81	16,635.81	(0.00)
62001	At	19,871.87	16,234.01	(1,127.20)	14,379.20	16,605.42	9,232.41	(1,469.03)	102,724.16	102,724.16	102,724.16	(0.00)
62002	At	18,204.18	18,174.47	(1,032.72)	14,300.85	16,032.85	1,635.76	(508.55)	14,398.62	14,398.62	14,398.62	(0.00)
62003	By	62,424.23	58,249.22	(5,205.51)	46,778.62	51,627.83	5,851.21	(645.70)	16,344.85	16,344.85	16,344.85	(0.00)
62004	Ad	96,886.21	85,858.63	(10,729.58)	62,415.20	78,280.32	2,865.12	(2,175.81)	64,570.62	64,570.62	64,570.62	(0.00)
62005	Ln	30,887.22	28,322.56	(2,115.63)	22,415.20	25,203.32	2,865.12	(748.49)	80,974.23	80,974.23	80,974.23	(0.00)
62006	Sts	49,594.82	35,750.46	(1,708.81)	42,777.90	43,860.05	1,587.15	(1,648.02)	748.49	748.49	748.49	(0.00)
62007	Sts	19,241.22	10,500.41	(1,708.81)	3,831.45	9,342.24	1,058.79	(648.02)	451.73	451.73	451.73	(0.00)
62008	Ma	29,904.88	29,218.30	(3,597.18)	18,814.19	22,345.65	2,323.55	(809.78)	20,280.20	20,280.20	20,280.20	(0.00)
62009	Ma	28,934.30	25,211.55	(1,722.75)	24,618.97	24,041.99	4,423.07	(900.43)	37,489.74	37,489.74	37,489.74	(0.00)
62010	Ma	47,825.07	44,051.46	(7,604.82)	7,867.13	8,308.80	941.67	(1,803.55)	12,283.70	12,283.70	12,283.70	(0.00)
62011	Ma	10,362.30	8,225.09	(3,977.76)	8,482.90	7,290.12	816.22	(432.46)	11,141.62	11,141.62	11,141.62	(0.00)
62012	Te	7,020.49	7,159.99	(8,316.4)	8,250.14	63,456.54	7,191.80	(1,141.62)	68,376.41	68,376.41	68,376.41	(0.00)
62013	Sn	138,912.41	123,174.47	(15,637.94)	96,878.38	109,261.43	830.76	(1,528.87)	138,908.47	138,908.47	138,908.47	(0.00)
62014	Ns	9,401.77	8,170.29	(1,311.48)	4,842.51	5,055.46	1,028.39	(800.76)	15,284.92	15,284.92	15,284.92	(0.00)
62015	Wn	4,864.42	5,701.84	(862.61)	4,842.51	5,055.46	1,028.39	(800.76)	15,284.92	15,284.92	15,284.92	(0.00)
62016	Wn	11,254.94	10,342.62	(1,393.36)	4,842.51	5,055.46	1,028.39	(800.76)	15,284.92	15,284.92	15,284.92	(0.00)
62017	Wn	17,621.24	16,373.05	(1,219.51)	12,807.17	14,511.86	1,028.39	(800.76)	15,284.92	15,284.92	15,284.92	(0.00)
62018	Wn	10,308.75	9,855.81	(650.94)	25,297.54	21,538.81	3,558.20	(1,044.63)	14,449.70	14,449.70	14,449.70	(0.00)
62019	An	7,854.17	6,802.87	(751.50)	5,841.02	6,702.57	6,833.36	(871.94)	18,191.43	18,191.43	18,191.43	(0.00)
62020	Mn	7,854.17	6,802.87	(751.50)	5,841.02	6,702.57	6,833.36	(871.94)	18,191.43	18,191.43	18,191.43	(0.00)
62021	Le	7,854.17	6,802.87	(751.50)	5,841.02	6,702.57	6,833.36	(871.94)	18,191.43	18,191.43	18,191.43	(0.00)
62022	Le	7,854.17	6,802.87	(751.50)	5,841.02	6,702.57	6,833.36	(871.94)	18,191.43	18,191.43	18,191.43	(0.00)
62023	Re	5,003.73	3,893.43	(1,077.20)	3,788.34	3,539.49	759.72	(628.15)	5,433.77	5,433.77	5,433.77	(0.00)
62024	Ch	13,041.89	11,868.67	(1,371.21)	8,750.12	10,241.15	401.15	(628.15)	5,433.77	5,433.77	5,433.77	(0.00)
62025	Sn	4,005.89	11,868.67	(1,371.21)	3,531.74	3,983.16	451.42	(1,031.09)	13,055.33	13,055.33	13,055.33	(0.00)
62026	Hs	8,205.32	8,003.52	(1,511.90)	4,298.72	4,514.22	403.96	(517.79)	9,152.40	9,152.40	9,152.40	(0.00)
62027	Ch	14,482.12	12,818.65	(1,511.90)	10,228.16	11,423.56	1,296.40	(2,573.99)	17,064.80	17,064.80	17,064.80	(0.00)
62028	Ca	24,270.12	22,703.08	(1,793.14)	19,128.12	21,423.56	6,723.40	(1,075.74)	30,744.37	30,744.37	30,744.37	(0.00)
62029	Ch	32,275.16	29,217.02	(2,438.44)	23,177.46	26,385.57	2,988.12	(573.19)	36,588.81	36,588.81	36,588.81	(0.00)
62030	Cc	43,862.88	53,175.92	(6,202.84)	47,818.84	51,582.77	3,843.83	(4,920.80)	49,500.41	49,500.41	49,500.41	(0.00)
62031	Int	43,862.88	44,137.18	(4,765.45)	34,821.06	39,020.44	4,449.70	(1,000.08)	57,850.31	57,850.31	57,850.31	(0.00)
62032	Se	46,801.63	44,036.18	(8,765.45)	24,806.26	28,920.54	4,423.49	(1,044.63)	36,598.29	36,598.29	36,598.29	(0.00)
62033	Se	46,801.63	44,036.18	(8,765.45)	24,806.26	28,920.54	4,423.49	(1,044.63)	36,598.29	36,598.29	36,598.29	(0.00)
62034	Se	46,801.63	44,036.18	(8,765.45)	24,806.26	28,920.54	4,423.49	(1,044.63)	36,598.29	36,598.29	36,598.29	(0.00)
62035	Se	46,801.63	44,036.18	(8,765.45)	24,806.26	28,920.54	4,423.49	(1,044.63)	36,598.29	36,598.29	36,598.29	(0.00)
62036	Se	46,801.63	44,036.18	(8,765.45)	24,806.26	28,920.54	4,423.49	(1,044.63)	36,598.29	36,598.29	36,598.29	(0.00)
62037	Se	46,801.63	44,036.18	(8,765.45)	24,806.26	28,920.54	4,423.49	(1,044.63)	36,598.29	36,598.29	36,598.29	(0.00)
62038	Se	46,801.63	44,036.18	(8,765.45)	24,806.26	28,920.54	4,423.49	(1,044.63)	36,598.29	36,598.29	36,598.29	(0.00)
62039	Se	46,801.63	44,036.18	(8,765.45)	24,806.26	28,920.54	4,423.49	(1,044.63)	36,598.29	36,598.29	36,598.29	(0.00)
62040	Se	46,801.63	44,036.18	(8,765.45)	24,806.26	28,920.54	4,423.49	(1,044.63)	36,598.29	36,598.29	36,598.29	(0.00)
62041	Se	46,801.63	44,036.18	(8,765.45)	24,806.26	28,920.54	4,423.49	(1,044.63)	36,598.29	36,598.29	36,598.29	(0.00)
62042	Se	46,801.63	44,036.18	(8,765.45)	24,806.26	28,920.54	4,423.49	(1,044.63)	36,598.29	36,598.29	36,598.29	(0.00)
62043	Se	46,801.63	44,036.18	(8,765.45)	24,806.26	28,920.54	4,423.49	(1,044.63)	36,598.29	36,598.29	36,598.29	(0.00)
62044	Se	46,801.63	44,036.18	(8,765.45)	24,806.26	28,920.54	4,423.49	(1,044.63)	36,598.29	36,598.29	36,598.29	(0.00)
62045	Se	46,801.63	44,036.18	(8,765.45)	24,806.26	28,920.54	4,423.49	(1,044.63)	36,598.29	36,598.29	36,598.29	(0.00)
62046	Se	46,801										

67010	51	7411.52	6.968.71	(183.81)	844.54	0.718.56	700.02	(142.79)	8,405.36	4,262.57	8,262.57	0.00
67014	51	14,900.18	13,898.69	(1,001.49)	10,222.63	12,218.77	1,396.18	301.65	14,157.88	14,157.88	14,157.88	0.00
67015	51	8,444.55	7,859.43	(585.12)	6,786.64	6,296.02	1,944.37	121.35	12,135.38	12,135.38	12,135.38	0.00
68001	51	69,225.89	63,599.42	(5,626.47)	52,067.71	56,715.52	4,617.81	6,911.54	64,551.79	64,551.79	64,551.79	0.00
68002	51	26,500.20	31,075.45	4,575.25	24,427.49	27,541.99	1,111.56	1,312.29	28,212.29	28,212.29	28,212.29	0.00
68003	51	54,123.86	49,113.18	(5,010.68)	38,770.04	43,725.65	4,955.61	4,116.89	51,962.67	51,962.67	51,962.67	0.00
68004	51	15,200.15	14,103.37	(1,096.78)	11,087.41	12,500.10	1,416.69	1,116.89	9,774.80	10,094.71	10,094.71	0.00
68005	51	36,077.05	33,127.90	(2,949.15)	26,191.57	29,539.40	3,347.83	1,396.63	38,467.46	38,467.46	38,467.46	0.00
68006	51	78,841.54	74,608.65	(4,232.89)	58,154.54	64,549.38	6,394.84	7,654.78	70,844.69	70,844.69	70,844.69	0.00
68007	51	19,774.08	16,457.95	(3,316.13)	12,810.16	14,580.24	1,769.08	1,651.71	16,811.11	16,811.11	16,811.11	0.00
69001	51	19,827.08	116,773.71	96,946.63	91,785.28	103,499.63	11,710.05	11,165.89	113,124.07	113,124.07	113,124.07	0.00
69002	51	37,088.28	33,350.22	(3,738.06)	28,262.20	33,520.20	4,623.87	1,115.89	35,200.08	35,200.08	35,200.08	0.00
69003	51	51,620.00	48,011.03	(3,608.97)	36,174.65	40,738.52	4,623.87	1,115.89	45,478.44	45,478.44	45,478.44	0.00
69004	51	17,157.04	15,488.45	(1,668.59)	12,174.88	14,429.58	1,551.83	1,551.83	15,511.26	15,511.26	15,511.26	0.00
69005	51	15,634.78	16,347.80	713.02	12,847.11	14,499.58	1,652.47	1,551.83	16,654.44	16,654.44	16,654.44	0.00
69006	51	15,634.78	13,274.48	(2,360.30)	10,428.52	14,429.58	1,551.83	1,551.83	15,511.26	15,511.26	15,511.26	0.00
69007	51	18,071.80	11,819.95	(6,251.85)	9,304.72	10,428.52	1,123.80	1,123.80	12,578.52	12,578.52	12,578.52	0.00
70001	51	4,578.31	3,958.09	(620.22)	3,110.37	3,508.16	437.79	357.79	3,868.16	3,868.16	3,868.16	0.00
70002	51	104,127.24	97,156.57	(6,970.67)	78,132.82	86,112.44	8,979.62	2,785.62	97,958.06	97,958.06	97,958.06	0.00
70003	51	3,464.44	2,918.87	(545.57)	2,380.87	2,882.44	501.57	2,382.37	3,411.00	3,411.00	3,411.00	0.00
70004	51	23,994.24	22,374.24	(1,620.00)	17,686.36	19,820.88	2,234.52	2,234.52	22,820.88	22,820.88	22,820.88	0.00
70005	51	4,808.81	7,814.91	3,006.10	6,141.06	6,928.56	787.50	787.50	7,718.56	7,718.56	7,718.56	0.00
70006	51	4,038.01	7,771.07	3,733.06	6,141.06	6,928.56	787.50	787.50	7,718.56	7,718.56	7,718.56	0.00
70007	51	11,648.17	8,566.28	(3,081.89)	6,141.06	6,928.56	787.50	787.50	7,718.56	7,718.56	7,718.56	0.00
71001	51	2,918.37	2,033.93	(884.44)	1,684.41	2,033.93	339.52	339.52	2,033.93	2,033.93	2,033.93	0.00
71002	51	31,981.10	22,848.63	(9,132.47)	17,044.34	24,580.22	7,535.88	2,033.93	25,614.27	25,614.27	25,614.27	0.00
71003	51	4,878.15	7,825.18	2,947.03	6,151.76	6,939.21	787.45	787.45	7,729.16	7,729.16	7,729.16	0.00
71004	51	1,493,643.2	1,317,198.82	(176,444.38)	1,058,154.02	1,167,468.18	111,314.16	16,291.94	1,229,750.12	1,229,750.12	1,229,750.12	0.00
71005	51	102,301.28	167,318.52	65,017.24	128,481.87	148,785.18	16,659.31	16,659.31	165,440.49	165,440.49	165,440.49	0.00
71006	51	653,863.08	604,445.74	(49,417.34)	476,074.90	535,736.26	60,717.28	11,273.35	619,010.61	619,010.61	619,010.61	0.00
71007	51	210,885.51	198,145.26	(12,740.25)	159,748.90	175,656.84	19,907.94	7,267.89	202,924.73	202,924.73	202,924.73	0.00
71008	51	409,407.14	377,070.45	(32,336.69)	296,330.36	334,207.52	37,877.16	8,834.69	354,041.68	354,041.68	354,041.68	0.00
71009	51	96,475.09	87,950.03	(8,525.06)	69,117.72	77,953.44	8,834.69	3,915.51	83,033.25	83,033.25	83,033.25	0.00
71010	51	90,401.38	81,906.35	(8,495.03)	64,834.18	72,585.72	7,751.54	2,859.55	77,695.27	77,695.27	77,695.27	0.00
71011	51	596,934.28	514,889.10	(82,045.18)	443,704.91	456,380.02	12,675.11	12,675.11	469,055.13	469,055.13	469,055.13	0.00
71012	51	48,600.88	44,116.01	(4,484.87)	32,927.77	36,458.93	3,531.16	3,531.16	40,988.93	40,988.93	40,988.93	0.00
71013	51	347,497.90	315,112.41	(32,385.49)	245,798.72	279,489.73	31,691.01	31,691.01	317,480.74	317,480.74	317,480.74	0.00
71014	51	82,252.79	87,265.85	5,013.06	68,988.04	72,919.28	4,931.24	4,931.24	73,850.52	73,850.52	73,850.52	0.00
71015	51	48,877.18	17,407.16	(31,470.02)	13,884.75	15,784.96	1,899.21	1,899.21	17,684.16	17,684.16	17,684.16	0.00
71016	51	14,327.55	12,749.70	(1,577.85)	10,181.67	11,300.39	1,118.72	1,118.72	12,400.11	12,400.11	12,400.11	0.00
71017	51	19,238.67	103,323.09	84,084.42	61,672.58	92,109.78	10,439.19	10,439.19	102,548.97	102,548.97	102,548.97	0.00
71018	51	81,570.07	74,629.16	(6,940.91)	58,668.67	66,150.29	7,481.62	7,481.62	66,150.29	66,150.29	66,150.29	0.00
71019	51	19,320.25	12,611.08	(6,709.17)	13,904.11	15,650.16	1,745.05	1,745.05	15,650.16	15,650.16	15,650.16	0.00
71020	51	1,540.98	1,740.11	200.13	1,600.00	1,560.16	797.62	797.62	1,797.62	1,797.62	1,797.62	0.00
71021	51	44,438.67	40,248.54	(4,190.13)	31,708.24	35,762.34	4,053.10	4,053.10	35,762.34	35,762.34	35,762.34	0.00
71022	51	27,467.07	25,299.91	(2,167.16)	19,862.87	22,423.98	2,561.11	2,561.11	22,423.98	22,423.98	22,423.98	0.00
71023	51	214,689.34	193,627.12	(21,062.22)	154,170.64	173,821.28	19,650.64	1,871.80	196,692.48	196,692.48	196,692.48	0.00
71024	51	12,228.14	25,408.17	13,180.03	8,971.89	10,118.46	1,146.57	1,146.57	12,265.03	12,265.03	12,265.03	0.00
71025	51	25,408.17	20,130.97	(5,277.20)	16,820.43	17,842.51	2,022.08	2,022.08	18,842.51	18,842.51	18,842.51	0.00
71026	51	19,976.05	14,563.07	(5,412.98)	11,444.76	12,807.63	1,362.87	1,362.87	12,807.63	12,807.63	12,807.63	0.00
71027	51	35,528.91	24,429.58	(11,099.33)	18,106.60	21,652.58	2,435.98	2,435.98	20,542.58	20,542.58	20,542.58	0.00
71028	51	16,486.18	8,615.91	(7,870.27)	6,711.00	7,616.51	955.51	955.51	8,571.51	8,571.51	8,571.51	0.00
71029	51	1,364.46	8,615.91	7,251.45	2,200.96	2,716.51	555.55	555.55	3,272.06	3,272.06	3,272.06	0.00
71030	51	108,330.07	94,978.21	(13,351.86)	74,661.03	78,111.71	3,455.68	3,455.68	82,066.69	82,066.69	82,066.69	0.00
71031	51	17,616.47	17,616.47	0.00	13,862.98	14,111.71	227.73	227.73	14,111.71	14,111.71	14,111.71	0.00
71032	51	10,816.10	10,029.28	(786.82)	7,811.77	8,609.23	797.46	797.46	8,609.23	8,609.23	8,609.23	0.00
71033	51	4,909.94	4,729.52	(180.42)	3,738.82	4,151.00	412.18	412.18	4,151.00	4,151.00	4,151.00	0.00
71034	51											0.00
71035	51											0.00
71036	51											0.00
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JOY HOFMEISTER
STATE SUPERINTENDENT *of* PUBLIC INSTRUCTION
OKLAHOMA STATE DEPARTMENT *of* EDUCATION

June 6, 2019

VIA EMAIL ONLY

Gary Watts

Garv.Watts@sandites.org

Re: *Independent Sch. Dist. No. 2, Tulsa County, et al. v. Oklahoma Tax Commissioner, Steve Burrage, et al.*, Case No. CV-16-1249 (the "Litigation")

Mr. Watts,

I appreciate you sending the information regarding the above-referenced Litigation, and specifically as it relates to the Oklahoma Tax Commission's (the "OTC") calculation of motor vehicle collections and how said collections and calculations are distributed to Oklahoma public schools. I am writing to follow-up in response to your requests on behalf of the Oklahoma State Department of Education (the "OSDE").

Generally, my understanding of the Litigation is that an Agreed Order has been entered by the Court whereby the OTC will be withholding motor vehicle tax collection allocations from certain school districts and apportion such sums to other school districts. *See* Agreed Order, on file therein. Furthermore, my understanding of your request is that the OSDE use the statutory intent of the state aid formula so as to not factor, as a chargeable when calculating state aid distributions for the 2019-2020 school year, any of these additional monies school districts will receive from the Litigation.¹ If my understanding is correct, respectfully and as set forth below, it is my opinion that both the premise and conclusions reached in your correspondence are entirely misplaced.

As an initial matter, the statutory language that you rely on merely sets forth the general legislative intent for the state aid formula. Stated otherwise, in no way does this language identify the specific calculation for any portion of the state aid formula, including but not limited to how the motor vehicle collection amounts are factored into said formula or how monies received (regardless of the mechanism) offset other sources of funding through the formula. As you are

¹ The general calculation formula for state aid allocations, including how motor vehicle collections and funds received by public schools as a result therefrom, is attached as Exhibit "A." In essence, the greater the amount of chargeable income (including motor vehicle collection amounts paid to school districts) the lower the state aid allocation resulting in an offset and equalization between the two. The same is true in reverse, the lesser the amount of chargeable income (including motor vehicle allocations), the greater the state aid allocation, also resulting in an offset and equalization between the two.

presumably aware, a specific statute controls over the general statute on the same subject. *See Compsource Mutual Insurance Company v. State ex rel. Oklahoma Tax Commission*, 2018 OK 54, 435 P.3d 90.

In the instant matter, there is a statute that expressly commands how the state aid formula is to be calculated and it specifically accounts for motor vehicle collections apportioned to the various school districts. As a result, this statute controls over the more general statute relating to the intent of the state aid formula. The state aid formula is expressly set forth at 70 O.S. § 18-200.1, and specific to motor vehicle collections provides as follows:

D. For the 1997-98 school year, and each school year thereafter, Foundation Aid, the Transportation Supplement and Salary Incentive Aid shall be calculated as follows:

1. Foundation Aid shall be determined by subtracting the amount of the Foundation Program Income from the cost of the Foundation Program and adding to this difference the Transportation Supplement.

a. The Foundation Program shall be a district's highest weighted average daily membership based on the first nine (9) weeks of the current school year, the preceding school year or the second preceding school year of a school district, as determined by the provisions of subsection A of Section 18-201.1 of this title and paragraphs 1, 2, 3 and 4 of subsection B of Section 18-201.1 of this title, multiplied by the Base Foundation Support Level. However, for the portion of weighted membership derived from nonresident, transferred pupils enrolled in online courses, the Foundation Program shall be a district's weighted average daily membership of the preceding school year or the first nine (9) weeks of the current school year, whichever is greater, as determined by the provisions of subsection A of Section 18-201.1 of this title and paragraphs 1, 2, 3 and 4 of subsection B of Section 18-201.1 of this title, multiplied by the Base Foundation Support Level.

b. The Foundation Program Income shall be the sum of the following:

(1) The adjusted assessed valuation of the current school year of the school district, minus the previous year protested ad valorem tax revenues held as prescribed in Section 2884 of Title 68 of the Oklahoma Statutes, multiplied by the mills levied pursuant to subsection (c) of Section 9 of Article X of the Oklahoma Constitution, if applicable, as adjusted in subsection (c) of Section 8A of Article X of the Oklahoma Constitution. For purposes of this subsection, the "adjusted assessed valuation of the current school year" shall be the adjusted assessed

valuation on which tax revenues are collected during the current school year, and

- (2) Seventy-five percent (75%) of the amount received by the school district from the proceeds of the county levy during the preceding fiscal year, as levied pursuant to subsection (b) of Section 9 of Article X of the Oklahoma Constitution, and
- (3) Motor Vehicle Collections, and
- (4) Gross Production Tax, and
- (5) State Apportionment, and
- (6) R.E.A. Tax.

The items listed in divisions (3), (4), (5), and (6) of this subparagraph shall consist of the amounts actually collected from such sources during the preceding fiscal year calculated on a per capita basis on the unit provided for by law for the distribution of each such revenue. *See* 70 O.S. § 18-200.1.

Noticeably absent from this section of law is any language providing the result that you desire, namely that the motor vehicle collections or amounts distributed to school districts based on these collections is not to be chargeable against said districts in the processing of the state aid formula. In fact, the opposite is true. Further, also entirely absent is any language stating that amounts received by a school district as a result of litigation based on the motor vehicle collection statute shall not be charged against said school district for purposes of calculating state aid allocations. If you are aware of a statute providing for such a process, please advise. However, if not, the result appears to be simply as follows: whether received via litigation or from the direct allocations from the OTC from motor vehicle collections, such allocations to school districts must be factored into the state aid formula. Additionally, there does not appear to be any language in any of the Court's orders from above-referenced lawsuit, nor was the OSDE a party to said lawsuit(s) agreeing to your request, such that the OSDE is further without the ability to process state aid calculation in the manner requested. Again, if you have any such information in an Order, I respectfully request that you provide it.

Lastly, a review of recent legislative efforts surrounding the specific state aid formula calculations and the motor vehicle collection language is illuminating in commanding that your request be denied. In the 2019 Legislative Session, House Bill 1991 was introduced and would have provided the result that you seek. However, unfortunate to your cause, House Bill 1991 did not go any further than being introduced and was therefore well short of becoming law. A copy of House Bill 1991, Introduced, is attached as Exhibit "B."²

² A closer examination of House Bill 1991 reveals that it was introduced by the Representative of Sand Springs, Oklahoma. Conveniently, but likely not coincidentally, your most recent employment and the main Plaintiff in the above-referenced lawsuit is Sand Springs Public Schools such that you are presumably aware of this introduced legislative measure. It was not referenced in any of your correspondence such that I thought we should bring this matter to your attention in the instance that you were not aware of this potential

As such, in light of the foregoing, the OSDE respectfully declines your request. If you have any questions or want to further discuss this matter, please do not hesitate to contact me.

Sincerely,



Brad S. Clark
General Counsel

solution. However, to the extent that you were aware of this legislative measure, perhaps requested it, this further evidences your having prior knowledge that the outcome you desire is not allowable.

CALCULATING THE STATE AID FORMULA

FOUNDATION AID

Weighted ADM _____ x Foundation Aid Factor = _____ (1)

SUBTRACT CHARGEABLE INCOME

(Valuations: Up to 11% - Down to 11%)

Prior Year Net Assessed Valuation (In January: Current Year Net Assessed Valuation)

Adjusted Valuation x 15 Mills: _____ x .015 * = _____
 *plus increased millage because of personal property tax adjustment

(Prior Year Collections of :)

75% of County 4-Mill Levy _____ x .75 = _____

School Land _____ = _____

Gross Production _____ = _____

Motor Vehicle Collections _____ = _____

R.E.A. Tax _____ = _____

TOTAL CHARGEABLES TOTAL = _____ (2)

FOUNDATION AID TOTAL (Amount [1] Less Amount [2]) = _____ (3)
 (Zero if Less Than Zero)

TRANSPORTATION:

(Average Daily Haul x Per Capita x Transportation Factor)

_____ x _____ x $\frac{1.39}{\text{Transp. Factor}}$ TOTAL = _____ (4)
 ADH Per Capita

SALARY INCENTIVE AID

A. _____ Incentive Aid Factor x _____ = _____
 (Weighted ADM)

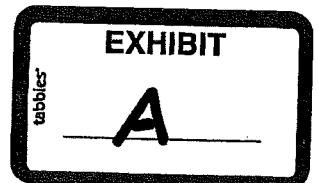
B. _____ Adjusted District Assessed Valuation / 1000 = _____

C. Step A (-) Step B = _____

Step C x 20 Mills = **SALARY INCENTIVE AID** = _____ (5)

TOTAL STATE AID (Amount 3 + 4 + 5) = _____

**Stabilization Component of the American Recovery and Reinvestment Act (ARRA)*





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STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

HOUSE BILL 1991

By: Nollan

AS INTRODUCED

An Act relating to State Aid; amending 70 O.S. 2011, Section 18-200.1, which relates to allocation of State Aid; changing applicability of State Aid calculations; altering calculation based on state-dedicated revenues; modifying calculation of Motor Vehicle Collections; and declaring an emergency.

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

SECTION 1. AMENDATORY 70 O.S. 2011, Section 18-200.1, is amended to read as follows:

Section 18-200.1 A. Beginning with the ~~1997-98~~ 2019-2020 school year, and each school year thereafter, each school district shall have its initial allocation of State Aid calculated based on the state-dedicated revenues ~~actually collected during the preceding fiscal year~~ as provided for in subsection D of this section, the adjusted assessed valuation of the preceding year and the highest weighted average daily membership for the school district of the two (2) preceding school years; however, the weighted membership of nonresident, transferred pupils enrolled in online courses shall be



1 based on the weighted average daily membership of the preceding
2 school year. Each school district shall submit the following data
3 based on the first nine (9) weeks, to be used in the calculation of
4 the average daily membership of the school district:

- 5 1. Student enrollment by grade level;
- 6 2. Pupil category counts; and
- 7 3. Transportation supplement data.

8 On or before December 30, the State Department of Education
9 shall determine each school district's current year allocation
10 pursuant to subsection D of this section. The State Department of
11 Education shall complete an audit, using procedures established by
12 the Department, of the student enrollment by grade level data, pupil
13 category counts and transportation supplement data to be used in the
14 State Aid Formula pursuant to subsection D of this section by
15 December 1 and by January 15 shall notify each school district of
16 the district's final State Aid allocation for the current school
17 year. The January payment of State Aid and each subsequent payment
18 for the remainder of the school year shall be based on the final
19 State Aid allocation as calculated in subsection D of this section.
20 Except for reductions made due to the assessment of penalties by the
21 State Department of Education according to law, the January payment
22 of State Aid and each subsequent payment for the remainder of the
23 school year shall not decrease by an amount more than the amount
24 that the current chargeable revenue increases for that district.

1 B. The State Department of Education shall retain not less than
2 one and one-half percent (1 1/2%) of the total funds appropriated
3 for financial support of schools, to be used to make midyear
4 adjustments in State Aid and which shall be reflected in the final
5 allocations. If the amount of appropriated funds, including the one
6 and one-half percent (1 1/2%) retained, remaining after January 1 of
7 each year is not sufficient to fully fund the final allocations, the
8 Department shall recalculate each school district's remaining
9 allocation pursuant to subsection D of this section using the
10 reduced amount of appropriated funds.

11 C. On and after July 1, 1997, the amount of State Aid each
12 district shall receive shall be the sum of the Foundation Aid, the
13 Salary Incentive Aid and the Transportation Supplement, as adjusted
14 pursuant to the provisions of subsection G of this section and
15 Section 18-112.2 of this title; provided, no district having per
16 pupil revenue in excess of three hundred percent (300%) of the
17 average per pupil revenue of all districts shall receive any State
18 Aid or Supplement in State Aid.

19 The July calculation of per pupil revenue shall be determined by
20 dividing the district's second preceding year's total weighted
21 average daily membership (ADM) into the district's second preceding
22 year's total revenues excluding federal revenue, insurance loss
23 payments, reimbursements, recovery of overpayments and refunds,
24

1 unused reserves, prior expenditures recovered, prior year surpluses,
2 and less the amount of any transfer fees paid in that year.

3 The December calculation of per pupil revenue shall be
4 determined by dividing the district's preceding year's total
5 weighted average daily membership (ADM) into the district's
6 preceding year's total revenues excluding federal revenue, insurance
7 loss payments, reimbursements, recovery of overpayments and refunds,
8 unused reserves, prior expenditures recovered, prior year surpluses,
9 and less the amount of any transfer fees paid in that year.

10 D. For the 1997-98 school year, and each school year
11 thereafter, Foundation Aid, the Transportation Supplement and Salary
12 Incentive Aid shall be calculated as follows:

13 1. Foundation Aid shall be determined by subtracting the amount
14 of the Foundation Program Income from the cost of the Foundation
15 Program and adding to this difference the Transportation Supplement.

16 a. The Foundation Program shall be a district's highest
17 weighted average daily membership based on the first
18 nine (9) weeks of the current school year, the
19 preceding school year or the second preceding school
20 year of a school district, as determined by the
21 provisions of subsection A of Section 18-201.1 of this
22 title and paragraphs 1, 2, 3 and 4 of subsection B of
23 Section 18-201.1 of this title, multiplied by the Base
24 Foundation Support Level. However, for the portion of

1 weighted membership derived from nonresident,
2 transferred pupils enrolled in online courses, the
3 Foundation Program shall be a district's weighted
4 average daily membership of the preceding school year
5 or the first nine (9) weeks of the current school
6 year, whichever is greater, as determined by the
7 provisions of subsection A of Section 18-201.1 of this
8 title and paragraphs 1, 2, 3 and 4 of subsection B of
9 Section 18-201.1 of this title, multiplied by the Base
10 Foundation Support Level.

11 b. The Foundation Program Income shall be the sum of the
12 following:

13 (1) The adjusted assessed valuation of the current
14 school year of the school district, minus the
15 previous year protested ad valorem tax revenues
16 held as prescribed in Section 2884 of Title 68 of
17 the Oklahoma Statutes, multiplied by the mills
18 levied pursuant to subsection (c) of Section 9 of
19 Article X of the Oklahoma Constitution, if
20 applicable, as adjusted in subsection (c) of
21 Section 8A of Article X of the Oklahoma
22 Constitution. For purposes of this subsection,
23 the "adjusted assessed valuation of the current
24 school year" shall be the adjusted assessed

1 valuation on which tax revenues are collected
2 during the current school year, and

3 (2) Seventy-five percent (75%) of the amount received
4 by the school district from the proceeds of the
5 county levy during the preceding fiscal year, as
6 levied pursuant to subsection (b) of Section 9 of
7 Article X of the Oklahoma Constitution, and

8 (3) Motor Vehicle Collections, which for each school
9 district shall consist of an amount based upon
10 the proportion of the total amount actually
11 collected by all districts during the preceding
12 fiscal year that each district's average daily
13 attendance bears to the total average daily
14 attendance of all districts entitled to receive
15 funds pursuant to this section as certified by
16 the State Department of Education, and

17 (4) Gross Production Tax, and

18 (5) State Apportionment, and

19 (6) R.E.A. Tax.

20 The items listed in divisions ~~(3)~~, (4), (5), and (6)
21 of this subparagraph shall consist of the amounts
22 actually collected from such sources during the
23 preceding fiscal year calculated on a per capita basis
24

1 on the unit provided for by law for the distribution
2 of each such revenue.

3 2. The Transportation Supplement shall be equal to the average
4 daily haul times the per capita allowance times the appropriate
5 transportation factor.

6 a. The average daily haul shall be the number of children
7 in a district who are legally transported and who live
8 one and one-half (1 1/2) miles or more from school.

9 b. The per capita allowance shall be determined using the
10 following chart:

	PER CAPITA			PER CAPITA	
	DENSITY FIGURE	ALLOWANCE	DENSITY FIGURE	ALLOWANCE	
11					
12					
13	.3000 - .3083	\$167.00	.9334 - .9599	\$99.00	
14	.3084 - .3249	\$165.00	.9600 - .9866	\$97.00	
15	.3250 - .3416	\$163.00	.9867 - 1.1071	\$95.00	
16	.3417 - .3583	\$161.00	1.1072 - 1.3214	\$92.00	
17	.3584 - .3749	\$158.00	1.3215 - 1.5357	\$90.00	
18	.3750 - .3916	\$156.00	1.5358 - 1.7499	\$88.00	
19	.3917 - .4083	\$154.00	1.7500 - 1.9642	\$86.00	
20	.4084 - .4249	\$152.00	1.9643 - 2.1785	\$84.00	
21	.4250 - .4416	\$150.00	2.1786 - 2.3928	\$81.00	
22	.4417 - .4583	\$147.00	2.3929 - 2.6249	\$79.00	
23	.4584 - .4749	\$145.00	2.6250 - 2.8749	\$77.00	
24	.4750 - .4916	\$143.00	2.8750 - 3.1249	\$75.00	

1	.4917 - .5083	\$141.00	3.1250 - 3.3749	\$73.00
2	.5084 - .5249	\$139.00	3.3750 - 3.6666	\$70.00
3	.5250 - .5416	\$136.00	3.6667 - 3.9999	\$68.00
4	.5417 - .5583	\$134.00	4.0000 - 4.3333	\$66.00
5	.5584 - .5749	\$132.00	4.3334 - 4.6666	\$64.00
6	.5750 - .5916	\$130.00	4.6667 - 4.9999	\$62.00
7	.5917 - .6133	\$128.00	5.0000 - 5.5000	\$59.00
8	.6134 - .6399	\$125.00	5.5001 - 6.0000	\$57.00
9	.6400 - .6666	\$123.00	6.0001 - 6.5000	\$55.00
10	.6667 - .6933	\$121.00	6.5001 - 7.0000	\$53.00
11	.6934 - .7199	\$119.00	7.0001 - 7.3333	\$51.00
12	.7200 - .7466	\$117.00	7.3334 - 7.6667	\$48.00
13	.7467 - .7733	\$114.00	7.6668 - 8.0000	\$46.00
14	.7734 - .7999	\$112.00	8.0001 - 8.3333	\$44.00
15	.8000 - .8266	\$110.00	8.3334 - 8.6667	\$42.00
16	.8267 - .8533	\$108.00	8.6668 - 9.0000	\$40.00
17	.8534 - .8799	\$106.00	9.0001 - 9.3333	\$37.00
18	.8800 - .9066	\$103.00	9.3334 - 9.6667	\$35.00
19	.9067 - .9333	\$101.00	9.6668 or more	\$33.00

20 c. The formula transportation factor shall be 1.39.

21 3. Salary Incentive Aid shall be determined as follows:

22 a. Multiply the Incentive Aid guarantee by the district's
23 highest weighted average daily membership based on the
24 first nine (9) weeks of the current school year, the

1 preceding school year or the second preceding school
2 year of a school district, as determined by the
3 provisions of subsection A of Section 18-201.1 of this
4 title and paragraphs 1, 2, 3 and 4 of subsection B of
5 Section 18-201.1 of this title.

6 b. Divide the district's adjusted assessed valuation of
7 the current school year minus the previous year's
8 protested ad valorem tax revenues held as prescribed
9 in Section 2884 of Title 68 of the Oklahoma Statutes,
10 by one thousand (1,000) and subtract the quotient from
11 the product of subparagraph a of this paragraph. The
12 remainder shall not be less than zero (0).

13 c. Multiply the number of mills levied for general fund
14 purposes above the fifteen (15) mills required to
15 support Foundation Aid pursuant to division (1) of
16 subparagraph b of paragraph 1 of this subsection, not
17 including the county four-mill levy, by the remainder
18 of subparagraph b of this paragraph. The product
19 shall be the Salary Incentive Aid of the district.

20 E. By June 30, 1998, the State Department of Education shall
21 develop and the Department and all school districts shall have
22 implemented a student identification system which is consistent with
23 the provisions of subsections C and D of Section 3111 of Title 74 of
24 the Oklahoma Statutes. The student identification system shall be

1 used specifically for the purpose of reporting enrollment data by
2 school sites and by school districts, the administration of the
3 Oklahoma School Testing Program Act, the collection of appropriate
4 and necessary data pursuant to the Oklahoma Educational Indicators
5 Program, determining student enrollment, establishing a student
6 mobility rate, allocation of the State Aid Formula and mid-year
7 adjustments in funding for student growth. This enrollment data
8 shall be submitted to the State Department of Education in
9 accordance with rules promulgated by the State Board of Education.
10 Funding for the development, implementation, personnel training and
11 maintenance of the student identification system shall be set out in
12 a separate line item in the allocation section of the appropriation
13 bill for the State Board of Education for each year.

14 F. 1. In the event that ad valorem taxes of a school district
15 are determined to be uncollectible because of bankruptcy, clerical
16 error, or a successful tax protest, and the amount of such taxes
17 deemed uncollectible exceeds Fifty Thousand Dollars (\$50,000.00) or
18 an amount greater than twenty-five percent (25%) of ad valorem taxes
19 per tax year, or the valuation of a district is lowered by order of
20 the State Board of Equalization, the school district's State Aid,
21 for the school year that such ad valorem taxes are calculated in the
22 State Aid Formula, shall be determined by subtracting the net
23 assessed valuation of the property upon which taxes were deemed
24 uncollectible from the assessed valuation of the school district and

1 the state. Upon request of the local board of education, it shall
2 be the duty of the county assessor to certify to the Director of
3 Finance of the State Department of Education the net assessed
4 valuation of the property upon which taxes were determined
5 uncollectible.

6 2. In the event that the amount of funds a school district
7 receives for reimbursement from the Ad Valorem Reimbursement Fund is
8 less than the amount of funds claimed for reimbursement by the
9 school district due to insufficiency of funds as provided in Section
10 193 of Title 62 of the Oklahoma Statutes, then the school district's
11 assessed valuation for the school year that such ad valorem
12 reimbursement is calculated in the State Aid Formula shall be
13 adjusted accordingly.

14 G. 1. Notwithstanding the provisions of Section 18-112.2 of
15 this title, a school district shall have its State Aid reduced by an
16 amount equal to the amount of carryover in the general fund of the
17 district as of June 30 of the preceding fiscal year, that is in
18 excess of the following standards for two (2) consecutive years:

19	Total Amount of	Amount of
20	General Fund Collections,	General Fund
21	Excluding Previous Year	Balance
22	Cash Surplus as of June 30	Allowable
23	Less than \$1,000,000	40%
24	\$1,000,000 - \$2,999,999	35%

1	\$3,000,000 - \$3,999,999	30%
2	\$4,000,000 - \$4,999,999	25%
3	\$5,000,000 - \$5,999,999	20%
4	\$6,000,000 - \$7,999,999	18%
5	\$8,000,000 - \$9,999,999	16%
6	\$10,000,000 or more	14%

7 2. By February 1 the State Department of Education shall send
8 by certified mail, with return receipt requested, to each School
9 District Superintendent, Auditor and Regional Accreditation Officer
10 a notice of and calculation sheet reflecting the general fund
11 balance penalty to be assessed against that school district.

12 Calculation of the general fund balance penalty shall not include
13 federal revenue. Within thirty (30) days of receipt of this written
14 notice the school district shall submit to the Department a written
15 reply either accepting or protesting the penalty to be assessed
16 against the district. If protesting, the school district shall
17 submit with its reply the reasons for rejecting the calculations and
18 documentation supporting those reasons. The Department shall review
19 all school district penalty protest documentation and notify each
20 district by March 15 of its finding and the final penalty to be
21 assessed to each district. General fund balance penalties shall be
22 assessed to all school districts by April 1.

23 3. Any school district which receives proceeds from a tax
24 settlement or a Federal Emergency Management Agency settlement

1 during the last two (2) months of the preceding fiscal year shall be
2 exempt from the penalties assessed in this subsection, if the
3 penalty would occur solely as a result of receiving funds from the
4 tax settlement.

5 4. Any school district which receives an increase in State Aid
6 because of a change in Foundation and/or Salary Incentive Aid
7 factors during the last two (2) months of the preceding fiscal year
8 shall be exempt from the penalties assessed in this subsection, if
9 the penalty would occur solely as a result of receiving funds from
10 the increase in State Aid.

11 5. If a school district does not receive Foundation and/or
12 Salary Incentive Aid during the preceding fiscal year, the State
13 Board of Education may waive the penalty assessed in this subsection
14 if the penalty would result in a loss of more than forty percent
15 (40%) of the remaining State Aid to be allocated to the school
16 district between April 1 and the remainder of the school year and if
17 the Board determines the penalty will cause the school district not
18 to meet remaining financial obligations.

19 6. Any school district which receives gross production revenue
20 apportionment during the 2002-2003 school year or in any subsequent
21 school year that is greater than the gross production revenue
22 apportionment of the preceding school year shall be exempt from the
23 penalty assessed in this subsection, if the penalty would occur
24

1 solely as a result of the gross production revenue apportionment, as
2 determined by the State Board of Education.

3 7. Beginning July 1, 2003, school districts that participate in
4 consolidation or annexation pursuant to the provisions of the
5 Oklahoma School Voluntary Consolidation and Annexation Act shall be
6 exempt from the penalty assessed in this subsection for the school
7 year in which the consolidation or annexation occurs and for the
8 next three (3) fiscal years.

9 8. Any school district which receives proceeds from a sales tax
10 levied by a municipality pursuant to Section 22-159 of Title 11 of
11 the Oklahoma Statutes or proceeds from a sales tax levied by a
12 county pursuant to Section 1370 of Title 68 of the Oklahoma Statutes
13 during the 2003-2004 school year or the 2004-2005 school year shall
14 be exempt from the penalties assessed in this subsection, if the
15 penalty would occur solely as a result of receiving funds from the
16 sales tax levy.

17 9. For purposes of calculating the general fund balance
18 penalty, the terms "carryover" and "general fund balance" shall not
19 include federal revenue.

20 H. In order to provide startup funds for the implementation of
21 early childhood programs, State Aid may be advanced to school
22 districts that initially start early childhood instruction at a
23 school site. School districts that desire such advanced funding
24 shall make application to the State Department of Education no later

1 than September 15 of each year and advanced funding shall be awarded
2 to the approved districts no later than October 30. The advanced
3 funding shall not exceed the per pupil amount of State Aid as
4 calculated in subsection D of this section per anticipated Head
5 Start eligible student. The total amount of advanced funding shall
6 be proportionately reduced from the monthly payments of the
7 district's State Aid payments during the last six (6) months of the
8 same fiscal year.

9 I. 1. Beginning July 1, 1996, the Oklahoma Tax Commission,
10 notwithstanding any provision of law to the contrary, shall report
11 monthly to the State Department of Education the monthly
12 apportionment of the following information:

- 13 a. the assessed valuation of property,
- 14 b. motor vehicle collections,
- 15 c. R.E.A. tax collected, and
- 16 d. gross productions tax collected.

17 2. Beginning July 1, 1997, the State Auditor and Inspector's
18 Office, notwithstanding any provision of law to the contrary, shall
19 report monthly to the State Department of Education the monthly
20 apportionment of the proceeds of the county levy.

21 3. Beginning July 1, 1996, the Commissioners of the Land
22 Office, notwithstanding any provision of law to the contrary, shall
23 report monthly to the State Department of Education the monthly
24 apportionment of state apportionment.

1 4. Beginning July 1, 1997, the county treasurers' offices,
2 notwithstanding any provision of law to the contrary, shall report
3 monthly to the State Department of Education the ad valorem tax
4 protest amounts for each county.

5 5. The information reported by the Tax Commission, the State
6 Auditor and Inspector's Office, the county treasurers' offices and
7 the Commissioners of the Land Office, pursuant to this subsection
8 shall be reported by school district on forms developed by the State
9 Department of Education.

10 SECTION 2. It being immediately necessary for the preservation
11 of the public peace, health or safety, an emergency is hereby
12 declared to exist, by reason whereof this act shall take effect and
13 be in full force from and after its passage and approval.

14
15 57-1-5666 EK 01/08/19
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BILL INFORMATION FOR HB 1991

HB 1991 by Nollan

Receive Email Updates for this Measure (LENS)

Enter Bill #

State Aid; altering calculation based on state dedicated revenues; modifying calculation of Motor Vehicle Collections; emergency.

History	Amendments	Bill Summaries	Versions	Votes	Co Authors
HISTORY FOR HB 1991					
Action		Journal Page	Date	Chamber	
First Reading		178	02/04/2019	H	
Authored by Representative Nollan		178	02/04/2019	H	
Second Reading referred to Appropriations and Budget		311	02/05/2019	H	
Referred to Appropriations and Budget Education Subcommittee			02/07/2019	H	

