

**SENATE CHAMBER**  
**STATE OF OKLAHOMA**

DISPOSITION

FLOOR AMENDMENT

No. \_\_\_\_\_

\_\_\_\_\_

COMMITTEE AMENDMENT

\_\_\_\_\_

(Date)

Mr./Madame President:

I move to amend House Bill No. 1940, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

\_\_\_\_\_  
Senator Hicks

Hicks-EB-FS-Req#2114  
3/28/2019 9:56 AM

(Floor Amendments Only) Date and Time Filed: \_\_\_\_\_

Untimely

Amendment Cycle Extended

Secondary Amendment

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 FLOOR SUBSTITUTE  
4 FOR ENGROSSED

5 HOUSE BILL NO. 1940

By: Strom and Caldwell (Trey)  
of the House

and

Hicks of the Senate

6  
7  
8  
9 FLOOR SUBSTITUTE

10 An Act relating to school attendance; amending 70  
11 O.S. 2011, Section 10-105, which relates to  
12 compulsory school attendance; providing certain  
13 exemption for a child granted certain valid excuse  
14 for an absence; amending 70 O.S. 2011, Section 10-  
15 106, which relates to attendance records; excusing  
16 absence due to school-approved activities and  
17 approved extracurricular activities; and providing an  
18 effective date.

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

20 SECTION 1. AMENDATORY 70 O.S. 2011, Section 10-105, is  
21 amended to read as follows:

22 Section 10-105. A. It shall be unlawful for a parent,  
23 guardian, or other person having custody of a child who is over the  
24 age of five (5) years, and under the age of eighteen (18) years, to  
neglect or refuse to cause or compel such child to attend and comply  
with the rules of some public, private or other school, unless other

1 means of education are provided for the full term the schools of the  
2 district are in session or the child is excused as provided in this  
3 section. One-half (1/2) day of kindergarten shall be required of  
4 all children five (5) years of age or older unless the child is  
5 excused from kindergarten attendance as provided in this section. A  
6 child who is five (5) years of age shall be excused from  
7 kindergarten attendance until the next school year after the child  
8 is six (6) years of age if a parent, guardian, or other person  
9 having custody of the child notifies the superintendent of the  
10 district where the child is a resident by certified mail prior to  
11 enrollment in kindergarten, or at any time during the first school  
12 year that the child is required to attend kindergarten pursuant to  
13 this section, of election to withhold the child from kindergarten  
14 until the next school year after the child is six (6) years of age.  
15 A kindergarten program shall be directed toward developmentally  
16 appropriate objectives for such children. The program shall require  
17 that any teacher employed on and after January 1, 1993, to teach a  
18 kindergarten program within the public school system shall be  
19 certified in early childhood education. All teachers hired to teach  
20 a kindergarten program within the public school system prior to  
21 January 1, 1993, shall be required to obtain certification in early  
22 childhood education on or before the 1996-97 school year in order to  
23 continue to teach a kindergarten program.

24

1 B. It shall be unlawful for any child who is over the age of  
2 twelve (12) years and under the age of eighteen (18) years, and who  
3 has not finished four (4) years of high school work, to neglect or  
4 refuse to attend and comply with the rules of some public, private  
5 or other school, or receive an education by other means for the full  
6 term the schools of the district are in session.

7 Provided, that this section shall not apply:

8 1. If any child is prevented from attending school by reason of  
9 mental or physical disability, to be determined by the board of  
10 education of the district upon a certificate of the school physician  
11 or public health physician, or, if no such physician is available, a  
12 duly licensed and practicing physician;

13 2. If any child is excused from attendance at school, due to an  
14 emergency, by the principal teacher of the school in which such  
15 child is enrolled, at the request of the parent, guardian, custodian  
16 or other person having control of such child;

17 3. If any child who has attained his or her sixteenth birthday  
18 is excused from attending school by written, joint agreement  
19 between:

20 a. the school administrator of the school district where  
21 the child attends school, and

22 b. the parent, guardian or custodian of the child.

23 Provided, further, that no child shall be excused from  
24 attending school by such joint agreement between a

1 school administrator and the parent, guardian or  
2 custodian of the child unless and until it has been  
3 determined that such action is for the best interest  
4 of the child and/or the community, and that said child  
5 shall thereafter be under the supervision of the  
6 parent, guardian or custodian until the child has  
7 reached the age of eighteen (18) years;

8 4. If any child is excused from attending school for the  
9 purpose of observing religious holy days if before the absence, the  
10 parent, guardian, or person having custody or control of the student  
11 submits a written request for the excused absence. The school  
12 district shall excuse a student pursuant to this subsection for the  
13 days on which the religious holy days are observed and for the days  
14 on which the student must travel to and from the site where the  
15 student will observe the holy days; ~~or~~

16 5. If any child is excused from attending school for the  
17 purpose of participating in a military funeral honors ceremony upon  
18 approval of the school principal; or

19 6. If any child has been granted a valid excuse for his or her  
20 absence from school as provided for in Section 10-106 of this title.

21 C. It shall be the duty of the attendance officer to enforce  
22 the provisions of this section. In the prosecution of a parent,  
23 guardian, or other person having custody of a child for violation of  
24 any provision of this section, it shall be an affirmative defense

1 that the parent, guardian, or other person having custody of the  
2 child has made substantial and reasonable efforts to comply with the  
3 compulsory attendance requirements of this section but is unable to  
4 cause the child to attend school. If the court determines the  
5 affirmative defense is valid, it shall dismiss the complaint against  
6 the parent, guardian, or other person having custody of the child  
7 and shall notify the school attendance officer who shall refer the  
8 child to the district attorney for the county in which the child  
9 resides for the filing of a Child in Need of Supervision petition  
10 against the child pursuant to the Oklahoma Juvenile Code.

11 D. Any parent, guardian, custodian, child or other person  
12 violating any of the provisions of this section, upon conviction,  
13 shall be guilty of a misdemeanor, and shall be punished as follows:

14 1. For the first offense, a fine of not less than Twenty-five  
15 Dollars (\$25.00) nor more than Fifty Dollars (\$50.00), or  
16 imprisonment for not more than five (5) days, or both such fine and  
17 imprisonment;

18 2. For the second offense, a fine of not less than Fifty  
19 Dollars (\$50.00) nor more than One Hundred Dollars (\$100.00), or  
20 imprisonment for not more than ten (10) days, or both such fine and  
21 imprisonment; and

22 3. For the third or subsequent offense, a fine of not less than  
23 One Hundred Dollars (\$100.00) nor more than Two Hundred Fifty  
24

1 Dollars (\$250.00), or imprisonment for not more than fifteen (15)  
2 days, or both such fine and imprisonment.

3 Each day the child remains out of school after the oral and  
4 documented or written warning has been given to the parent,  
5 guardian, custodian, child or other person or the child has been  
6 ordered to school by the juvenile court shall constitute a separate  
7 offense.

8 E. At the trial of any person charged with violating the  
9 provisions of this section, the attendance records of the child or  
10 ward may be presented in court by any authorized employee of the  
11 school district.

12 F. The court may order the parent, guardian, or other person  
13 having custody of the child to perform community service in lieu of  
14 the fine set forth in this section. The court may require that all  
15 or part of the community service be performed for a public school  
16 district.

17 G. The court may order as a condition of a deferred sentence or  
18 as a condition of sentence upon conviction of the parent, guardian,  
19 or other person having custody of the child any conditions as the  
20 court considers necessary to obtain compliance with school  
21 attendance requirements. The conditions may include, but are not  
22 limited to, the following:

- 23 1. Verifying attendance of the child with the school;
- 24 2. Attending meetings with school officials;

- 1 3. Taking the child to school;
- 2 4. Taking the child to the bus stop;
- 3 5. Attending school with the child;
- 4 6. Undergoing an evaluation for drug, alcohol, or other
- 5 substance abuse and following the recommendations of the evaluator;
- 6 and
- 7 7. Taking the child for drug, alcohol, or other substance abuse
- 8 evaluation and following the recommendations of the evaluator,
- 9 unless excused by the court.

10 SECTION 2. AMENDATORY 70 O.S. 2011, Section 10-106, is  
11 amended to read as follows:

12 Section 10-106. A. It shall be the duty of the principal or  
13 head teacher of each public, private or other school in the State of  
14 Oklahoma to keep a full and complete record of the attendance of all  
15 children at such school and to notify the attendance officer of the  
16 district in which such school is located of the absence of such  
17 children from the school together with the causes thereof, if known;  
18 and it shall be the duty of any parent, guardian or other person  
19 having charge of any child of compulsory attendance age to notify  
20 the child's teacher concerning the cause of any absences of such  
21 child. It shall be the duty of the principal or head teacher to  
22 notify the parent, guardian or responsible person of the absence of  
23 the child for any part of the school day, unless the parent,  
24 guardian or other responsible person notifies the principal or head



1 teacher of such absence. Such attendance officer and teacher shall  
2 be required to report to the school health officer all absences on  
3 account of illness with such information respecting the same as may  
4 be available by report or investigation; and the attendance officer  
5 shall, if justified by the circumstances, promptly give to the  
6 parent, guardian or custodian of any child who has not complied with  
7 the provisions of this article oral and documented or written  
8 warning to the last-known address of such person that the attendance  
9 of such child is required at some public, private or other school as  
10 herein provided. If within five (5) days after the warning has been  
11 received, the parent, guardian or custodian of such child does not  
12 comply with the provisions of this article, then such attendance  
13 officer shall make complaint against the parent, guardian or  
14 custodian of such child in a court of competent jurisdiction for  
15 such violation, which violation shall be a misdemeanor. If a child  
16 is absent without valid excuse four (4) or more days or parts of  
17 days within a four-week period or is absent without valid excuse for  
18 ten (10) or more days or parts of days within a semester, the  
19 attendance officer shall notify the parent, guardian or custodian of  
20 the child and immediately report such absences to the district  
21 attorney in the county wherein the school is located for juvenile  
22 proceedings pursuant to Title 10A of the Oklahoma Statutes.

23 B. As used in this section, "valid excuse" includes, but is not  
24 limited to, absences for:

1        1. Any school-approved activity; or

2        2. Participation in extracurricular activities approved by the

3 board of education or the school principal.

4        SECTION 3. This act shall become effective November 1, 2019.

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6        57-1-2114            EB            3/28/2019 9:56:49 AM

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