

ENROLLED SENATE
BILL NO. 1169

By: Anderson of the Senate

and

Denney, Richardson and
Tibbs of the House

An Act relating to schools; amending 70 O.S. 2001, Section 3-104, which relates to the powers and duties of the State Board of Education; clarifying statutory language; authorizing certain monies to be deposited in the State Public Common School Building Equalization Fund; declaring meaning of certain term; directing the Board to solicit proposals for grants; establishing certain criteria for grants; providing limit for amount of grants; authorizing priority consideration for certain districts; authorizing Board to prorate grants; specifying monies to be used for administering the fund; deleting certain duty of the State Board of Education, Commissioners of the Land Office, and other public agencies; amending 70 O.S. 2001, Sections 7-201, as amended by Section 1, Chapter 296, O.S.L. 2003, 7-202, as amended by Section 2, Chapter 296, O.S.L. 2003, 7-203, as last amended by Section 4, Chapter 278, O.S.L. 2006 and 7-204, as amended by Section 4, Chapter 296, O.S.L. 2003 (70 O.S. Supp. 2008, Sections 7-201, 7-202, 7-203 and 7-204), which relate to the Oklahoma School Voluntary Consolidation and Annexation Act; updating statutory citations; modifying name of the act; modifying purposes of School Consolidation Assistance Fund; modifying method of allocating funds; deleting obsolete language; and providing an effective date.

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

SECTION 1. AMENDATORY 70 O.S. 2001, Section 3-104, is amended to read as follows:

Section 3-104. The control of the State Department of Education and the supervision of the public school system of Oklahoma shall be vested in the State Board of Education and, subject to limitations otherwise provided by law, the State Board of Education shall:

1. Establish and prescribe the duties of an executive officer who shall be the State Superintendent of Public Instruction and whose duties shall include the responsibility to give advice and make recommendations to the Board on all matters pertaining to the policies and administration of the State Department of Education and the public school system;

2. Adopt policies and make rules for the operation of the State Department of Education and the public school system of the state;

3. Organize and have control of the administrative and supervisory agencies, divisions, personnel and their appointment and salaries and other operations necessary to carry out the powers, duties and functions of the Board and its executive officer;

4. Have authority to require the coordination of all divisions of the State Department of Education through its executive officer, delegate general supervision of all employees to its executive officer, require all recommendations to be presented through its executive officer, require its executive officer to be responsible for interpretation of the Board's policy, require any employee of the Board to present any specific matter directly to the Board;

5. Appoint, prescribe the duties and fix the compensation of a secretary, an attorney and all other personnel necessary for the proper performance of the functions of the State Board of Education. The secretary shall not be a member of the Board;

6. Submit to the Governor a departmental budget based upon major functions of the Department supported by detailed data on needs and proposed operations as partially determined by the budgetary needs of local school districts filed with the State Board of Education for the ensuing fiscal year. Appropriations therefor

shall be made in lump-sum form for each major item in the budget as follows:

- a. State Aid to schools,
- b. the supervision of all other functions of general and special education including general control, free textbooks, school lunch, Indian education and all other functions of the Board and an amount sufficient to adequately staff and administer these services, and
- c. the Board shall determine the details by which the budget and the appropriations are administered. Annually, the Board shall make preparations to consolidate all of the functions of the Department in such a way that the budget can be based on two items, administration and aid to schools. A maximum amount for administration shall be designated as a part of the total appropriation;

7. On the first day of December preceding each regular session of the Legislature, prepare and deliver to the Governor and the Legislature a report for the year ending June 30 immediately preceding said regular session of the Legislature. Said report shall contain:

- a. detailed statistics and other information concerning enrollment, attendance, expenditures including State Aid, and other pertinent data for all public schools in this state,
- b. reports from each and every division, department, institution or other agency under the supervision of the Board,
- c. recommendations for the improvement of the public school system of the state,
- d. a statement of the receipts and expenditures of the State Board of Education for the past year, and

- e. a statement of plans and recommendations for the management and improvement of public schools and such other information relating to the educational interests of the state as may be deemed necessary and desirable;

8. Provide for the formulation and adoption of curricula, courses of study and other instructional aids necessary for the adequate instruction of pupils in the public schools;

9. Have authority in matters pertaining to the licensure and certification of persons for instructional, supervisory and administrative positions and services in the public schools of the state subject to the provisions of Section 6-184 of this title, and shall formulate rules governing the issuance and revocation of certificates for superintendents of schools, principals, supervisors, librarians, clerical employees, school nurses, school bus drivers, visiting teachers, classroom teachers and for other personnel performing instructional, administrative and supervisory services, but not including members of boards of education and other employees who do not work directly with pupils, and may charge and collect reasonable fees for the issuance of such certificates:

- a. the State Department of Education shall not issue a certificate to and shall revoke the certificate of any person who has been convicted, whether upon a verdict or plea of guilty or upon a plea of nolo contendere, or received a suspended sentence or any probationary term for a crime or an attempt to commit a crime provided for in Section 7115 of Title 10 of the Oklahoma Statutes if the offense involved sexual abuse or sexual exploitation as those terms are defined in Section 7102 of Title 10 of the Oklahoma Statutes, Sections 741, 843.1, if the offense included sexual abuse or sexual exploitation, 865 et seq., 885, 888, 891, 1021, 1021.2, 1021.3, 1040.13a, 1040.51, 1087, 1088, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes or who enters this state and who has been convicted, received a suspended sentence or received a deferred judgement for a crime or attempted crime which, if committed or attempted in this state, would

be a crime or an attempt to commit a crime provided for in any of said laws,

- b. all funds collected by the State Department of Education for the issuance of certificates to instructional, supervisory and administrative personnel in the public schools of the state shall be deposited in the "Teachers' Certificate Fund" in the State Treasury and may be expended by the State Board of Education to finance the activities of the State Department of Education necessary to administer the program, for consultative services, publication costs, actual and necessary travel expenses as provided in the State Travel Reimbursement Act incurred by persons performing research work, and other expenses found necessary by the State Board of Education for the improvement of the preparation and certification of teachers in Oklahoma. Provided, any unobligated balance in the Teachers' Certificate Fund in excess of Ten Thousand Dollars (\$10,000.00) on June 30 of any fiscal year shall be transferred to the General Revenue Fund of the State of Oklahoma. Until July 1, 1997, the State Board of Education shall have authority for approval of teacher education programs. The State Board of Education shall also have authority for the administration of teacher residency and professional development, subject to the provisions of the Oklahoma Teacher Preparation Act;

10. Promulgate rules governing the classification, inspection, supervision and accrediting of all public nursery, kindergarten, elementary and secondary schools and on-site educational services provided by public school districts or state-accredited private schools in partial hospitalization programs, day treatment programs, and day hospital programs as defined in this act for persons between the ages of three (3) and twenty-one (21) years of age in the state. However, no school shall be denied accreditation solely on the basis of average daily attendance.

Any school district which maintains an elementary school and faces the necessity of relocating its school facilities because of construction of a lake, either by state or federal authority, which

will inundate the school facilities, shall be entitled to receive probationary accreditation from the State Board of Education for a period of five (5) years after the effective date of this act and any school district, otherwise qualified, shall be entitled to receive probationary accreditation from the State Board of Education for a period of two (2) consecutive years to attain the minimum average daily attendance. The Head Start and public nurseries or kindergartens operated from Community Action Program funds shall not be subjected to the accrediting rules of the State Board of Education. Neither will the State Board of Education make rules affecting the operation of the public nurseries and kindergartens operated from federal funds secured through Community Action Programs even though they may be operating in the public schools of the state. However, any of the Head Start or public nurseries or kindergartens operated under federal regulations may make application for accrediting from the State Board of Education but will be accredited only if application for the approval of the programs is made. The status of no school district shall be changed which will reduce it to a lower classification until due notice has been given to the proper authorities thereof and an opportunity given to correct the conditions which otherwise would be the cause of such reduction.

Private and parochial schools may be accredited and classified in like manner as public schools or, if an accrediting association is approved by the State Board of Education, by procedures established by the State Board of Education to accept accreditation by such accrediting association, if application is made to the State Board of Education for such accrediting;

11. Be the legal agent of the State of Oklahoma to accept, in its discretion, the provisions of any Act of Congress appropriating or apportioning funds which are now, or may hereafter be, provided for use in connection with any phase of the system of public education in Oklahoma. It shall prescribe such rules as it finds necessary to provide for the proper distribution of such funds in accordance with the state and federal laws;

12. Be and is specifically hereby designated as the agency of this state to cooperate and deal with any officer, board or authority of the United States Government under any law of the United States which may require or recommend cooperation with any

state board having charge of the administration of public schools unless otherwise provided by law;

13. Be and is hereby designated as the "State Educational Agency" referred to in Public Law 396 of the 79th Congress of the United States, which law states that said act may be cited as the "National School Lunch Act", and said State Board of Education is hereby authorized and directed to accept the terms and provisions of said act and to enter into such agreements, not in conflict with the Constitution of Oklahoma or the Constitution and Statutes of the United States, as may be necessary or appropriate to secure for the State of Oklahoma the benefits of the school lunch program established and referred to in said act;

14. Have authority to secure and administer the benefits of the National School Lunch Act, Public Law 396 of the 79th Congress of the United States, in the State of Oklahoma and is hereby authorized to employ or appoint and fix the compensation of such additional officers or employees and to incur such expenses as may be necessary for the accomplishment of the above purpose, administer the distribution of any state funds appropriated by the Legislature required as federal matching to reimburse on children's meals;

15. Accept and provide for the administration of any land, money, buildings, gifts, donation or other things of value which may be offered or bequeathed to the schools under the supervision or control of said Board;

16. Have authority to require persons having administrative control of all school districts in Oklahoma to make such regular and special reports regarding the activities of the schools in said districts as the Board may deem needful for the proper exercise of its duties and functions. Such authority shall include the right of the State Board of Education to withhold all state funds under its control, to withhold official recognition, including accrediting, until such required reports have been filed and accepted in the office of said Board and to revoke the certificates of persons failing or refusing to make such reports;

17. Have general supervision of the school lunch program. The State Board of Education may sponsor workshops for personnel and participants in the school lunch program and may develop, print and

distribute free of charge or sell any materials, books and bulletins to be used in such school lunch programs. There is hereby created in the State Treasury a revolving fund for the Board, to be designated the School Lunch Workshop Revolving Fund. The fund shall consist of all fees derived from or on behalf of any participant in any such workshop sponsored by the State Board of Education, or from the sale of any materials, books and bulletins, and such funds shall be disbursed for expenses of such workshops and for developing, printing and distributing of such materials, books and bulletins relating to the school lunch program. The fund shall be administered in accordance with the Revolving Fund Procedures Act;

18. Prescribe all forms for school district and county officers to report to the State Board of Education where required. The State Board of Education shall also prescribe a list of appropriation accounts by which the funds of school districts shall be budgeted, accounted for and expended; and it shall be the duty of the State Auditor and Inspector in prescribing all budgeting, accounting and reporting forms for school funds to conform to such lists;

19. Provide for the establishment of a uniform system of pupil and personnel accounting, records and reports;

20. Have authority to provide for the health and safety of school children and school personnel while under the jurisdiction of school authorities;

21. Provide for the supervision of the transportation of pupils;

22. Have authority, upon request of the local school board, to act in behalf of the public schools of the state in the purchase of transportation equipment;

23. Have authority and is hereby required to perform all duties necessary to the administration of the public school system in Oklahoma as specified in the Oklahoma School Code; and, in addition thereto, those duties not specifically mentioned herein if not delegated by law to any other agency or official;

24. Administer the State Public Common School Building Equalization Fund established by Section 32 of Article X of the

Oklahoma Constitution. Any royalties, bonuses, rentals or other monies derived from oil and gas and all other mineral leases on lands that have been or may be granted by the United States to the state for the use and benefit of the common schools, or lands that are or may be held by the Commissioners of the Land Office for the use and benefit of the common schools, the proceeds of the sale of easements, improvements and sand and gravel on any such lands, any monies as may be appropriated or designated by the Legislature, other than ad valorem taxes, any other funds identified by the State Department of Education, which may include, but not be limited to, grants-in-aid from the federal government for building purposes, the proceeds of all property that shall fall to the state by escheat, penalties for unlawful holding of real estate by corporations, and capital gains on assets of the permanent school funds, shall be deposited in such the State Public Common School Building Equalization Fund, which. The fund shall be used to aid school districts in acquiring buildings ~~under rules prescribed by the State Board of Education, as the administering agency,~~ subject to the limitations fixed by Section 32 of Article X of the Oklahoma Constitution. It is hereby declared that the term "acquiring buildings" as used in Section 32 of Article X of the Oklahoma Constitution shall mean acquiring or improving school sites, constructing, repairing, remodeling or equipping buildings, or acquiring school furniture, fixtures, or equipment. If sufficient monies are available in the fund, the Board shall solicit proposals for grants from school districts and shall determine the process for consideration of proposals. Grants shall be awarded only to school districts which have a total assessed property valuation per average daily membership that is less than the state average total assessed property valuation per average daily membership and, at the time of application, the district has voted the five-mill building fund levy authorized in Section 10 of Article X of the Oklahoma Constitution, and has voted indebtedness through the issuance of new bonds for at least eighty-five percent (85%) within the last three (3) years of the maximum allowable pursuant to the provisions of Section 26 of Article X of the Oklahoma Constitution as shown on the school district budget filed with the State Board of Equalization for the current school year and certifications by the Attorney General prior to April 1 of the school year. The amount of each grant awarded by the Board each year shall not exceed One Million Dollars (\$1,000,000.00). The Board shall give priority consideration to school districts which have a total assessed property valuation per

average daily membership that is equal to or less than twenty-five percent (25%) of the state average total assessed property valuation per average daily membership. The Board is authorized to prorate grants awarded if monies are not sufficient in the fund to award grants to qualified districts. The State Board of Education shall prescribe rules for making grants of aid from, and for otherwise administering, ~~such fund~~ the fund pursuant to the provisions of this paragraph, and may employ and fix the duties and compensation of technicians, aides, clerks, stenographers, attorneys and other personnel deemed necessary to perform its duties; and the carry out the provisions of this paragraph. The cost of administering ~~such fund~~ the fund shall be paid from ~~funds currently available monies~~ appropriated to the State Board of Education for the operation of the State Department of Education. It shall be the duty of the State Board of Education, the Commissioners of the Land Office and all other public agencies, officers and employees to observe and comply with the provisions of this paragraph, in all respects; and they shall not be held liable for any amount, penalty or punishment for having done so, unless and until they are directed to do otherwise by a court of competent jurisdiction;

25. Recognize that the Director of the Oklahoma Department of Corrections shall be the administrative authority for the schools which are maintained in the state reformatories and shall appoint the principals and teachers in such schools. Provided, that rules of the State Board of Education for the classification, inspection and accreditation of public schools shall be applicable to such schools; and such schools shall comply with standards set by the State Board of Education;

26. Have authority to administer a revolving fund which is hereby created in the State Treasury, to be designated the Statistical Services Revolving Fund. The fund shall consist of all monies received from the various school districts of the state, the United States Government, and other sources for the purpose of furnishing or financing statistical services and for any other purpose as designated by the Legislature. The State Board of Education is hereby authorized to enter into agreements with school districts, municipalities, the United States Government, foundations and other agencies or individuals for services, programs or research projects. The Statistical Services Revolving Fund shall be

administered in accordance with the Revolving Fund Procedures Act, Section 155 et seq. of Title 62 of the Oklahoma Statutes; and

27. Have authority to review preliminary plans for new construction and major alteration of public school buildings where structural changes are proposed. No bids shall be let for the construction or major alteration of any public school building until preliminary plans and specifications for such construction or alteration have been submitted to and reviewed by the State Department of Education. The period of time during which such review is conducted by the State Department of Education shall not exceed thirty (30) days. The State Department of Education shall advise each local school district regarding said review of preliminary plans and specifications. Provided, nothing in this subsection shall be construed as repealing any ordinance or building code of any city, town or county.

SECTION 2. AMENDATORY 70 O.S. 2001, Section 7-201, as amended by Section 1, Chapter 296, O.S.L. 2003 (70 O.S. Supp. 2008, Section 7-201), is amended to read as follows:

Section 7-201. Sections 7-201 through ~~7-205~~ 7-206 of this title shall be known and may be cited as the "Oklahoma School ~~Voluntary~~ Consolidation and Annexation Act".

SECTION 3. AMENDATORY 70 O.S. 2001, Section 7-202, as amended by Section 2, Chapter 296, O.S.L. 2003 (70 O.S. Supp. 2008, Section 7-202), is amended to read as follows:

Section 7-202. The provisions of the Oklahoma School ~~Voluntary~~ Consolidation and Annexation Act shall apply only to school districts whose entire territory has been annexed to one or more existing school districts or which have been created by the consolidation of two or more existing school districts in accordance with the provisions of Section 7-101 et seq. of ~~Title 70 of the Oklahoma Statutes~~ this title.

SECTION 4. AMENDATORY 70 O.S. 2001, Section 7-203, as last amended by Section 4, Chapter 278, O.S.L. 2006 (70 O.S. Supp. 2008, Section 7-203), is amended to read as follows:

Section 7-203. A. There is hereby created in the State Treasury a fund to be designated the "School Consolidation Assistance Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies the Legislature may appropriate or transfer to the fund and any monies contributed for the fund from any other source, public or private.

B. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the State Board of Education for the purposes established by this section, the Legislature and in accordance with rules promulgated by the State Board of Education. The purposes shall be to provide voluntarily or mandatorily consolidated school districts or districts who have received part or all of the territory and part or all of the students of a school district dissolved by voluntary or mandatory annexation, during the first year of consolidation or annexation, ~~except as provided for in subsection C of this section,~~ with a single one-year allocation of funds needed for:

1. Purchase of uniform textbooks in cases where the several districts were not using the same textbooks prior to consolidation or annexation;

2. Employment of certified personnel required to teach courses of the district for which personnel from the districts consolidated or annexed are not certified and available;

3. Employment assistance for personnel of the several districts who are not employed by the consolidated or annexing district. Employment assistance may include provision of a severance allowance for administrators, teachers and support personnel not to exceed eighty percent (80%) of the individual's salary or wages, exclusive of fringe benefits, for the school year preceding the consolidation or annexation. Personnel receiving such severance pay may accumulate one (1) year of creditable service for retirement purposes. Employment assistance may also include the payment of unemployment compensation benefits. The State Board of Education shall provide a severance allowance to employees dismissed from employment due to annexation or consolidation of a school district in the year of the annexation or consolidation and who were denied a severance allowance or unemployment compensation benefits and the voluntary consolidation funding of the annexing or consolidating

district or districts has been paid on or after July 1, 2003, at the maximum allowable amount. Application for a severance allowance shall be made to the Finance Division of the State Department of Education by the dismissed employee no later than September 1 of the fiscal year immediately following the fiscal year in which the annexation or consolidation occurred;

4. Furnishing and equipping classrooms and laboratories;

5. Purchase of additional transportation equipment; and

6. When deemed essential by the school district board of education to achieve consolidation or combination by annexation, renovation of existing school buildings and construction or other acquisition of school buildings.

C. The State Board of Education shall only make allocations from the fund to school districts formed from the combination of two or more of the districts whose boards of education notify the State Board of Education on or before June 30 of their intent to annex or consolidate and are subsequently combined by such means by January 1 of the second year following the notification of intent.

D. Allocations will be made to school districts formed by voluntary or mandatory consolidation ~~or which have received part or all of the territory and students of a school district by annexation~~ on the basis of combined average daily membership (ADM) of the ~~second~~ school year preceding the first year of operation of the school district resulting from the consolidation ~~or annexation~~; provided, not more than ~~one thousand (1,000)~~ two hundred (200) ADM of any one school district shall be counted in determining the combined ADM of any district formed by consolidation ~~or which has received part or all of the territory and students of a school district by annexation~~. The ADM of any one school district shall not be considered more than once for allocations from the fund when the school district ~~annexes to or~~ consolidates with two or more school districts. Allocations from the fund pursuant to this subsection shall be calculated by multiplying the combined ADM by Two Thousand Five Hundred Dollars (\$2,500.00).

~~E. To calculate combined ADM in cases where a school district annexes to two or more school districts, allocations from the fund shall be based on the lesser of:~~

~~1. The annexing school district's ADM as limited by this section plus the number of students from the annexed school district that the annexing school district will gain; or~~

~~2. The ADM as limited by this section that the annexing school district is gaining from the annexed school district plus the annexing school district's ADM as multiplied by the percentage of students the annexing school district is receiving from the annexed school district of all annexing school districts; provided the annexing school district's ADM thus calculated shall not exceed one thousand (1,000) Allocations will be made to school districts which have received part or all of the territory and students of a school district by voluntary or mandatory annexation on the basis of ADM of the annexed school district for the school year preceding the first year of operation of the school district resulting from the annexation; provided, not more than two hundred (200) ADM of the annexed district shall be counted. Allocations from the fund pursuant to this subsection shall be calculated by multiplying the allowable ADM by Five Thousand Dollars (\$5,000.00). In no case shall allocations payable pursuant to this subsection be less than Four Hundred Thousand Dollars (\$400,000.00) or greater than One Million Dollars (\$1,000,000.00).~~

~~F. Allocations from the fund shall be calculated by multiplying the combined ADM by:~~

~~1. One Thousand Dollars (\$1,000.00) when two districts are combined;~~

~~2. One Thousand Two Hundred Dollars (\$1,200.00) when three districts are combined;~~

~~3. One Thousand Four Hundred Dollars (\$1,400.00) when four districts are combined; and~~

~~4. One Thousand Six Hundred Dollars (\$1,600.00) when five or more districts are combined.~~

If monies in the School Consolidation Assistance Fund are insufficient to make allocations to all qualified combined districts, allocations shall be made based upon earliest date of application.

~~G. Any school district which was consolidated or which participated in an annexation in 2004 shall be eligible to receive funds from the School Consolidation Assistance Fund as provided in subsection F of this section.~~

SECTION 5. AMENDATORY 70 O.S. 2001, Section 7-204, as amended by Section 4, Chapter 296, O.S.L. 2003 (70 O.S. Supp. 2008, Section 7-204), is amended to read as follows:

Section 7-204. Consolidated districts and districts combined by annexation which are created pursuant to the Oklahoma School ~~Voluntary~~ Consolidation and Annexation Act shall have for three (3) subsequent consecutive years after consolidation or annexation preference for allocations from funds appropriated to the State Board of Education for Community Education, Alternative and High Challenge Schools, School/Community Network for Arts-in-Education, Instructional Cooperative and Technical Education, Advanced Placement Incentives, and for all other allocations made by the Board on a competitive basis.

SECTION 6. This act shall become effective November 1, 2009.

Passed the Senate the 20th day of May, 2009.

Presiding Officer of the Senate

Passed the House of Representatives the 22nd day of May, 2009.

Presiding Officer of the House
of Representatives