

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 1451

By: McMullen

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5  
6 AS INTRODUCED

7 An Act relating to schools; amending 70 O.S. 2001,  
8 Section 3-104, which relates to the powers and duties  
9 of the State Board of Education; clarifying statutory  
10 language; allowing the State Public Common School  
11 Building Equalization Fund to be used for  
12 construction of buildings; directing the Board to  
13 solicit proposals for grants; establishing certain  
14 criteria for grants; providing limit for the number  
15 and amount of grants; specifying monies to be used  
16 for administering the fund; deleting certain duty of  
17 the State Board of Education, Commissioners of the  
18 Land Office, and other public agencies; providing an  
19 effective date; and declaring an emergency.

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

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

23 Section 3-104. The control of the State Department of Education  
24 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

1 whose duties shall include the responsibility to give advice and  
2 make recommendations to the Board on all matters pertaining to the  
3 policies and administration of the State Department of Education and  
4 the public school system;

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

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

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

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

22 6. Submit to the Governor a departmental budget based upon  
23 major functions of the Department supported by detailed data on  
24 needs and proposed operations as partially determined by the

1 budgetary needs of local school districts filed with the State Board  
2 of Education for the ensuing fiscal year. Appropriations therefor  
3 shall be made in lump-sum form for each major item in the budget as  
4 follows:

- 5 a. State Aid to schools,
- 6 b. the supervision of all other functions of general and  
7 special education including general control, free  
8 textbooks, school lunch, Indian education and all  
9 other functions of the Board and an amount sufficient  
10 to adequately staff and administer these services, and  
11 c. the Board shall determine the details by which the  
12 budget and the appropriations are administered.

13 Annually, the Board shall make preparations to  
14 consolidate all of the functions of the Department in  
15 such a way that the budget can be based on two items,  
16 administration and aid to schools. A maximum amount  
17 for administration shall be designated as a part of  
18 the total appropriation;

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

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- 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

1 certificates for superintendents of schools, principals,  
2 supervisors, librarians, clerical employees, school nurses, school  
3 bus drivers, visiting teachers, classroom teachers and for other  
4 personnel performing instructional, administrative and supervisory  
5 services, but not including members of boards of education and other  
6 employees who do not work directly with pupils, and may charge and  
7 collect reasonable fees for the issuance of such certificates:

8       a. the State Department of Education shall not issue a  
9       certificate to and shall revoke the certificate of any  
10       person who has been convicted, whether upon a verdict  
11       or plea of guilty or upon a plea of nolo contendere,  
12       or received a suspended sentence or any probationary  
13       term for a crime or an attempt to commit a crime  
14       provided for in Section 7115 of Title 10 of the  
15       Oklahoma Statutes if the offense involved sexual abuse  
16       or sexual exploitation as those terms are defined in  
17       Section 7102 of Title 10 of the Oklahoma Statutes,  
18       Sections 741, 843.1, if the offense included sexual  
19       abuse or sexual exploitation, 865 et seq., 885, 888,  
20       891, 1021, 1021.2, 1021.3, 1040.13a, 1040.51, 1087,  
21       1088, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma  
22       Statutes or who enters this state and who has been  
23       convicted, received a suspended sentence or received a  
24       deferred judgement for a crime or attempted crime

1           which, if committed or attempted in this state, would  
2           be a crime or an attempt to commit a crime provided  
3           for in any of said laws,

4           b.   all funds collected by the State Department of  
5           Education for the issuance of certificates to  
6           instructional, supervisory and administrative  
7           personnel in the public schools of the state shall be  
8           deposited in the "Teachers' Certificate Fund" in the  
9           State Treasury and may be expended by the State Board  
10          of Education to finance the activities of the State  
11          Department of Education necessary to administer the  
12          program, for consultative services, publication costs,  
13          actual and necessary travel expenses as provided in  
14          the State Travel Reimbursement Act incurred by persons  
15          performing research work, and other expenses found  
16          necessary by the State Board of Education for the  
17          improvement of the preparation and certification of  
18          teachers in Oklahoma.  Provided, any unobligated  
19          balance in the Teachers' Certificate Fund in excess of  
20          Ten Thousand Dollars (\$10,000.00) on June 30 of any  
21          fiscal year shall be transferred to the General  
22          Revenue Fund of the State of Oklahoma.  Until July 1,  
23          1997, the State Board of Education shall have  
24          authority for approval of teacher education programs.

1           The State Board of Education shall also have authority  
2           for the administration of teacher residency and  
3           professional development, subject to the provisions of  
4           the Oklahoma Teacher Preparation Act;

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

14           Any school district which maintains an elementary school and  
15 faces the necessity of relocating its school facilities because of  
16 construction of a lake, either by state or federal authority, which  
17 will inundate the school facilities, shall be entitled to receive  
18 probationary accreditation from the State Board of Education for a  
19 period of five (5) years after the effective date of this act and  
20 any school district, otherwise qualified, shall be entitled to  
21 receive probationary accreditation from the State Board of Education  
22 for a period of two (2) consecutive years to attain the minimum  
23 average daily attendance. The Head Start and public nurseries or  
24 kindergartens operated from Community Action Program funds shall not

1 be subjected to the accrediting rules of the State Board of  
2 Education. Neither will the State Board of Education make rules  
3 affecting the operation of the public nurseries and kindergartens  
4 operated from federal funds secured through Community Action  
5 Programs even though they may be operating in the public schools of  
6 the state. However, any of the Head Start or public nurseries or  
7 kindergartens operated under federal regulations may make  
8 application for accrediting from the State Board of Education but  
9 will be accredited only if application for the approval of the  
10 programs is made. The status of no school district shall be changed  
11 which will reduce it to a lower classification until due notice has  
12 been given to the proper authorities thereof and an opportunity  
13 given to correct the conditions which otherwise would be the cause  
14 of such reduction.

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

21 11. Be the legal agent of the State of Oklahoma to accept, in  
22 its discretion, the provisions of any Act of Congress appropriating  
23 or apportioning funds which are now, or may hereafter be, provided  
24 for use in connection with any phase of the system of public

1 education in Oklahoma. It shall prescribe such rules as it finds  
2 necessary to provide for the proper distribution of such funds in  
3 accordance with the state and federal laws;

4 12. Be and is specifically hereby designated as the agency of  
5 this state to cooperate and deal with any officer, board or  
6 authority of the United States Government under any law of the  
7 United States which may require or recommend cooperation with any  
8 state board having charge of the administration of public schools  
9 unless otherwise provided by law;

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

20 14. Have authority to secure and administer the benefits of the  
21 National School Lunch Act, Public Law 396 of the 79th Congress of  
22 the United States, in the State of Oklahoma and is hereby authorized  
23 to employ or appoint and fix the compensation of such additional  
24 officers or employees and to incur such expenses as may be necessary

1 for the accomplishment of the above purpose, administer the  
2 distribution of any state funds appropriated by the Legislature  
3 required as federal matching to reimburse on children's meals;

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

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

18 17. Have general supervision of the school lunch program. The  
19 State Board of Education may sponsor workshops for personnel and  
20 participants in the school lunch program and may develop, print and  
21 distribute free of charge or sell any materials, books and bulletins  
22 to be used in such school lunch programs. There is hereby created  
23 in the State Treasury a revolving fund for the Board, to be  
24 designated the School Lunch Workshop Revolving Fund. The fund shall

1 consist of all fees derived from or on behalf of any participant in  
2 any such workshop sponsored by the State Board of Education, or from  
3 the sale of any materials, books and bulletins, and such funds shall  
4 be disbursed for expenses of such workshops and for developing,  
5 printing and distributing of such materials, books and bulletins  
6 relating to the school lunch program. The fund shall be  
7 administered in accordance with the Revolving Fund Procedures Act;

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

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

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

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

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

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

6        24. Administer the State Public Common School Building  
7 Equalization Fund established by Section 32 of Article X of the  
8 Oklahoma Constitution. Any royalties, bonuses, rentals or other  
9 monies derived from oil and gas and all other mineral leases on  
10 lands that have been or may be granted by the United States to the  
11 state for the use and benefit of the common schools, or lands that  
12 are or may be held by the Commissioners of the Land Office for the  
13 use and benefit of the common schools, the proceeds of the sale of  
14 easements, improvements and sand and gravel on any such lands, the  
15 proceeds of all property that shall fall to the state by escheat,  
16 penalties for unlawful holding of real estate by corporations, and  
17 capital gains on assets of the permanent school funds, shall be  
18 deposited in ~~such~~ the State Public Common School Building  
19 Equalization Fund, ~~which~~. The Fund shall be used to aid school  
20 districts in acquiring or constructing buildings ~~under rules~~  
21 ~~prescribed by the State Board of Education, as the administering~~  
22 ~~agency~~, subject to the limitations fixed by Section 32 of Article X  
23 of the Oklahoma Constitution. The Board shall solicit proposals for  
24 grants from schools and shall determine the process for

1 consideration of proposals. Grants shall be awarded only to schools  
2 which have a total assessed property valuation per average daily  
3 attendance that is less than seventy percent (70%) of the state  
4 average total assessed property valuation per average daily  
5 attendance and, at the time of application, the district has voted  
6 the five-mill building fund levy authorized in Section 10 of Article  
7 X of the Oklahoma Constitution, and has voted indebtedness through  
8 the issuance of new bonds for at least eighty-five percent (85%)  
9 within the last three (3) years of the maximum allowable pursuant to  
10 the provisions of Section 26 of Article X of the Oklahoma  
11 Constitution as shown on the school district budget filed with the  
12 State Board of Equalization for the current school year and  
13 certifications by the Attorney General prior to April 1 of the  
14 school year. The number and amount of each grant awarded by the  
15 Board each year shall be determined based on the total amount  
16 available in the Fund each year. The State Board of Education shall  
17 prescribe rules for making grants of aid from, and for otherwise  
18 administering, ~~such fund~~ the Fund pursuant to the provisions of this  
19 paragraph, and may employ and fix the duties and compensation of  
20 technicians, aides, clerks, stenographers, attorneys and other  
21 personnel deemed necessary to ~~perform its duties; and the~~ carry out  
22 the provisions of this paragraph. The cost of administering ~~such~~  
23 ~~fund~~ the Fund shall be paid from ~~funds currently available monies~~  
24 appropriated to the State Board of Education for the operation of

1 the State Department of Education. ~~It shall be the duty of the~~  
2 ~~State Board of Education, the Commissioners of the Land Office and~~  
3 ~~all other public agencies, officers and employees to observe and~~  
4 ~~comply with the provisions of this paragraph, in all respects; and~~  
5 ~~they shall not be held liable for any amount, penalty or punishment~~  
6 ~~for having done so, unless and until they are directed to do~~  
7 ~~otherwise by a court of competent jurisdiction;~~

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

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

1 and other agencies or individuals for services, programs or research  
2 projects. The Statistical Services Revolving Fund shall be  
3 administered in accordance with the Revolving Fund Procedures Act,  
4 Section 155 et seq. of Title 62 of the Oklahoma Statutes; and

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

18 SECTION 2. This act shall become effective July 1, 2009.

19 SECTION 3. It being immediately necessary for the preservation  
20 of the public peace, health and safety, an emergency is hereby  
21 declared to exist, by reason whereof this act shall take effect and  
22 be in full force from and after its passage and approval.

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24 52-1-6408 KB 01/11/09