

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

SENATE BILL 301

By: Loveless

AS INTRODUCED

An Act relating to schools; directing the State Board of Education to deny or revoke the certification of individuals upon certain determinations; prohibiting a person from another state who has had certification revoked or who has surrendered certification from being considered for certification within five years of such action; providing process for reinstatement of certification and associated fee; allowing the State Board of Education to suspend certification from certain individuals upon certain findings; allowing the State Board of Education to deny certification or revoke the license of certain individuals upon certain findings; directing school district boards of education to make certain notification to the State Board of Education; providing for confidentiality of certain personnel records; allowing the State Board of Education, by majority vote, to suspend or revoke the certificate of an individual under certain conditions; requiring certain notification to the district attorney; directing certain proceedings to be conducted in accordance with the Administrative Procedures Act; providing for the State Board of Education or its representative to inspect certain records; amending 70 O.S. 2011, Section 3-104, as last amended by Section 1, Chapter 271, O.S.L. 2013 (70 O.S. Supp. 2014, Section 3-104), which relates to powers and duties of the State Board of Education; allowing the State Board of Education to take certain action in accordance with the Administrative Procedures Act; allowing the State Board of Education to appoint an investigator; authorizing the State Board of Education to conduct certain investigations; directing the State Board of Education to promulgate certain rules; repealing 70 O.S. 2011, Section 3-

1 104.1, which relates to noncertification of convicted  
2 felons; providing for codification; providing an  
3 effective date; and declaring an emergency.

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

5 SECTION 1. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 3-104.8 of Title 70, unless  
7 there is created a duplication in numbering, reads as follows:

8 A. In addition to the powers and duties specified in Section 3-  
9 104 of Title 70 of the Oklahoma Statutes, the State Board of  
10 Education shall deny certification to and revoke the certification  
11 of any person upon determining that such person has been convicted,  
12 whether upon a verdict or plea of guilty or upon a plea of nolo  
13 contendere or receipt of a deferred sentence, a suspended sentence  
14 or any probationary term for a felony or a crime involving moral  
15 turpitude, a domestic violence offense, or a crime involving a  
16 minor; provided, that if the conviction has been reversed, vacated  
17 or otherwise invalidated by an appellate court, such conviction  
18 shall not be the basis for revocation of certification. The sole  
19 issue to be determined at the hearing before the State Board of  
20 Education shall be whether the person has been convicted of a  
21 felony, a crime involving moral turpitude, a domestic violence  
22 offense, or a crime involving a minor.

23 B No person who has had a certification from another state  
24 revoked or who has voluntarily surrendered that certification shall

1 be considered for certification by the State Board of Education  
2 within five (5) years of the effective date of any such revocation  
3 or voluntary surrender of certification.

4 C. Any person seeking reinstatement of a certification which  
5 has been suspended, revoked, or voluntarily surrendered may apply  
6 for reinstatement pursuant to rules promulgated by the State Board  
7 of Education governing reinstatement. Upon reinstatement, any  
8 person whose certification has been revoked, suspended, or  
9 voluntarily surrendered shall pay a reinstatement fee as established  
10 by the State Board of Education.

11 D. The State Board of Education may suspend the certification  
12 of an administrator, teacher, support personnel, or bus driver,  
13 without notice but otherwise subject to the Administrative  
14 Procedures Act, if the State Board of Education finds that the  
15 actions of the individual may involve a crime against a minor or may  
16 present a danger to the individual, the public, a family or  
17 household member or students.

18 E. The State Board of Education may deny certification to or  
19 revoke the license of any individual upon a finding that the  
20 individual falsified, altered, or forged the information or data  
21 certified or submitted to the State Department of Education through  
22 application, verification, or to obtain funding from the State  
23 Department of Education.  
24

1 F. Every local school district board of education in this state  
2 shall, within thirty (30) days of the issuance of a final order of  
3 termination or receipt of a notice of resignation from an employee  
4 certified by the State Board of Education while the employee is  
5 under investigation for an alleged violation of any state law,  
6 report such order or resignation in writing to the State Department  
7 of Education. Any report, upon receipt by the Department, shall be  
8 considered personnel records and shall be afforded confidential  
9 protection pursuant to Sections 24A.7 and 24A.8 of Title 51 of the  
10 Oklahoma Statutes. The Department shall ensure that the report is  
11 provided to all members of the State Board of Education. The State  
12 Board of Education may, by a majority vote, order the suspension for  
13 a given period of time, or revocation of the certification of the  
14 individual in question if there are sufficient grounds for such  
15 actions pursuant to this paragraph and the individual in question  
16 has been provided with notice and an opportunity for a hearing  
17 pursuant to the Administrative Procedures Act. The State Department  
18 of Education shall report all suspensions or revocations of  
19 certification pursuant to this paragraph to the district attorney  
20 for the jurisdiction in which the individual was employed.

21 G. All proceedings initiated pursuant to this section shall be  
22 conducted pursuant to the requirements of the Administrative  
23 Procedures Act and after sufficient hearing has been given before  
24 the State Board of Education.

1 H. The State Board of Education, or its authorized  
2 representative, shall be entitled to inspect and receive, upon  
3 request, all records necessary to implement the provisions of this  
4 section, including but not limited to court records, agency records,  
5 district attorney's records, and all state, federal, county or  
6 municipal agency law enforcement records, unless federal law  
7 prohibits such inspection or receipt.

8 SECTION 2. AMENDATORY 70 O.S. 2011, Section 3-104, as  
9 last amended by Section 1, Chapter 271, O.S.L. 2013 (70 O.S. Supp.  
10 2014, Section 3-104), is amended to read as follows:

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

15 1. Adopt policies and make rules for the operation of the  
16 public school system of the state;

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

21 3. Submit to the Governor a departmental budget based upon  
22 major functions of the Department as prepared by the State  
23 Superintendent of Public Instruction and supported by detailed data  
24 on 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 4. 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 the regular session of the Legislature. The report shall  
23 contain:  
24

- 1 a. detailed statistics and other information concerning  
2 enrollment, attendance, expenditures including State  
3 Aid, and other pertinent data for all public schools  
4 in this state,
- 5 b. reports from each and every division within the State  
6 Department of Education as submitted by the State  
7 Superintendent of Public Instruction and any other  
8 division, department, institution or other agency  
9 under the supervision of the Board,
- 10 c. recommendations for the improvement of the public  
11 school system of the state,
- 12 d. a statement of the receipts and expenditures of the  
13 State Board of Education for the past year, and
- 14 e. a statement of plans and recommendations for the  
15 management and improvement of public schools and such  
16 other information relating to the educational  
17 interests of the state as may be deemed necessary and  
18 desirable;

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

22 6. Have authority in matters pertaining to the licensure and  
23 certification of persons for instructional, supervisory and  
24 administrative positions and services in the public schools of the

1 state subject to the provisions of Section 6-184 of this title, and  
2 shall formulate rules governing the issuance and revocation of  
3 certificates for superintendents of schools, principals,  
4 supervisors, librarians, clerical employees, school nurses, school  
5 bus drivers, visiting teachers, classroom teachers and for other  
6 personnel performing instructional, administrative and supervisory  
7 services, but not including members of boards of education and other  
8 employees who do not work directly with pupils, and may charge and  
9 collect reasonable fees for the issuance of such certificates:

- 10 a. the State Department of Education shall not issue a  
11 certificate to and shall revoke the certificate of any  
12 person who has been convicted, whether upon a verdict  
13 or plea of guilty or upon a plea of nolo contendere,  
14 or received a suspended sentence or any probationary  
15 term for a crime or an attempt to commit a crime  
16 provided for in Section 843.5 of Title 21 of the  
17 Oklahoma Statutes if the offense involved sexual abuse  
18 or sexual exploitation as those terms are defined in  
19 Section 1-1-105 of Title 10A of the Oklahoma Statutes,  
20 Sections 741, 843.1, if the offense included sexual  
21 abuse or sexual exploitation, 865 et seq., 885, 888,  
22 891, 1021, 1021.2, 1021.3, 1040.13a, 1087, 1088,  
23 1111.1, 1114 or 1123 of Title 21 of the Oklahoma  
24 Statutes or who enters this state and who has been

1 convicted, received a suspended sentence or received a  
2 deferred judgment for a crime or attempted crime  
3 which, if committed or attempted in this state, would  
4 be a crime or an attempt to commit a crime provided  
5 for in any of said laws,

6 b. the State Board of Education may take appropriate  
7 action, in accordance with Article II of the  
8 Administrative Procedures Act, to deny certification  
9 to and revoke or suspend the certification of any  
10 individual pursuant to the provisions of Section 1 of  
11 this act,

12 c. the State Board of Education may appoint, prescribe  
13 the duties, and fix the compensation of an  
14 investigator to assist the Board in the issuance,  
15 denial, revocation or suspension of certificates  
16 pursuant to the provisions of Section 1 of this act,

17 d. all funds collected by the State Department of  
18 Education for the issuance of certificates to  
19 instructional, supervisory and administrative  
20 personnel in the public schools of the state shall be  
21 deposited in the "Teachers' Certificate Fund" in the  
22 State Treasury and may be expended by the State Board  
23 of Education to finance the activities of the State  
24 Department of Education necessary to administer the

1 program, for consultative services, publication costs,  
2 actual and necessary travel expenses as provided in  
3 the State Travel Reimbursement Act incurred by persons  
4 performing research work, and other expenses found  
5 necessary by the State Board of Education for the  
6 improvement of the preparation and certification of  
7 teachers in Oklahoma. Provided, any unobligated  
8 balance in the Teachers' Certificate Fund in excess of  
9 Ten Thousand Dollars (\$10,000.00) on June 30 of any  
10 fiscal year shall be transferred to the General  
11 Revenue Fund of the State of Oklahoma. Until July 1,  
12 1997, the State Board of Education shall have  
13 authority for approval of teacher education programs.  
14 The State Board of Education shall also have authority  
15 for the administration of teacher residency and  
16 professional development, subject to the provisions of  
17 the Oklahoma Teacher Preparation Act;

18 7. Promulgate rules governing the classification, inspection,  
19 supervision and accrediting of all public nursery, kindergarten,  
20 elementary and secondary schools and on-site educational services  
21 provided by public school districts or state-accredited private  
22 schools in partial hospitalization programs, day treatment programs,  
23 and day hospital programs as defined in this act for persons between  
24 the ages of three (3) and twenty-one (21) years of age in the state.

1 However, no school shall be denied accreditation solely on the basis  
2 of average daily attendance.

3 Any school district which maintains an elementary school and  
4 faces the necessity of relocating its school facilities because of  
5 construction of a lake, either by state or federal authority, which  
6 will inundate the school facilities, shall be entitled to receive  
7 probationary accreditation from the State Board of Education for a  
8 period of five (5) years after ~~the effective date of this act~~ June  
9 12, 1975, and any school district, otherwise qualified, shall be  
10 entitled to receive probationary accreditation from the State Board  
11 of Education for a period of two (2) consecutive years to attain the  
12 minimum average daily attendance. The Head Start and public  
13 nurseries or kindergartens operated from Community Action Program  
14 funds shall not be subjected to the accrediting rules of the State  
15 Board of Education. Neither will the State Board of Education make  
16 rules affecting the operation of the public nurseries and  
17 kindergartens operated from federal funds secured through Community  
18 Action Programs even though they may be operating in the public  
19 schools of the state. However, any of the Head Start or public  
20 nurseries or kindergartens operated under federal regulations may  
21 make application for accrediting from the State Board of Education  
22 but will be accredited only if application for the approval of the  
23 programs is made. The status of no school district shall be changed  
24 which will reduce it to a lower classification until due notice has

1 been given to the proper authorities thereof and an opportunity  
2 given to correct the conditions which otherwise would be the cause  
3 of such reduction.

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

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

17 9. Be and is specifically hereby designated as the agency of  
18 this state to cooperate and deal with any officer, board or  
19 authority of the United States Government under any law of the  
20 United States which may require or recommend cooperation with any  
21 state board having charge of the administration of public schools  
22 unless otherwise provided by law;

23 10. Be and is hereby designated as the "State Educational  
24 Agency" referred to in Public Law 396 of the 79th Congress of the

1 United States, which law states that said act may be cited as the  
2 "National School Lunch Act", and said State Board of Education is  
3 hereby authorized and directed to accept the terms and provisions of  
4 said act and to enter into such agreements, not in conflict with the  
5 Constitution of Oklahoma or the Constitution and Statutes of the  
6 United States, as may be necessary or appropriate to secure for the  
7 State of Oklahoma the benefits of the school lunch program  
8 established and referred to in said act;

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

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

21 13. Have authority to require persons having administrative  
22 control of all school districts in Oklahoma to make such regular and  
23 special reports regarding the activities of the schools in said  
24 districts as the Board may deem needful for the proper exercise of

1 its duties and functions. Such authority shall include the right of  
2 the State Board of Education to withhold all state funds under its  
3 control, to withhold official recognition, including accrediting,  
4 until such required reports have been filed and accepted in the  
5 office of said Board and to revoke the certificates of persons  
6 failing or refusing to make such reports;

7 14. Have general supervision of the school lunch program. The  
8 State Board of Education may sponsor workshops for personnel and  
9 participants in the school lunch program and may develop, print and  
10 distribute free of charge or sell any materials, books and bulletins  
11 to be used in such school lunch programs. There is hereby created  
12 in the State Treasury a revolving fund for the Board, to be  
13 designated the School Lunch Workshop Revolving Fund. The fund shall  
14 consist of all fees derived from or on behalf of any participant in  
15 any such workshop sponsored by the State Board of Education, or from  
16 the sale of any materials, books and bulletins, and such funds shall  
17 be disbursed for expenses of such workshops and for developing,  
18 printing and distributing of such materials, books and bulletins  
19 relating to the school lunch program. The fund shall be  
20 administered in accordance with Section 155 of Title 62 of the  
21 Oklahoma Statutes;

22 15. Prescribe all forms for school district and county officers  
23 to report to the State Board of Education where required. The State  
24 Board of Education shall also prescribe a list of appropriation

1 accounts by which the funds of school districts shall be budgeted,  
2 accounted for and expended; and it shall be the duty of the State  
3 Auditor and Inspector in prescribing all budgeting, accounting and  
4 reporting forms for school funds to conform to such lists;

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

7 17. Have authority to provide for the health and safety of  
8 school children and school personnel while under the jurisdiction of  
9 school authorities;

10 18. Provide for the supervision of the transportation of  
11 pupils;

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

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

20 21. Administer the State Public Common School Building  
21 Equalization Fund established by Section 32 of Article X of the  
22 Oklahoma Constitution. Any monies as may be appropriated or  
23 designated by the Legislature, other than ad valorem taxes, any  
24 other funds identified by the State Department of Education, which

1 may include, but not be limited to, grants-in-aid from the federal  
2 government for building purposes, the proceeds of all property that  
3 shall fall to the state by escheat, penalties for unlawful holding  
4 of real estate by corporations, and capital gains on assets of the  
5 permanent school funds, shall be deposited in the State Public  
6 Common School Building Equalization Fund. The fund shall be used to  
7 aid school districts and charter schools in acquiring buildings,  
8 subject to the limitations fixed by Section 32 of Article X of the  
9 Oklahoma Constitution. It is hereby declared that the term  
10 "acquiring buildings" as used in Section 32 of Article X of the  
11 Oklahoma Constitution shall mean acquiring or improving school  
12 sites, constructing, repairing, remodeling or equipping buildings,  
13 or acquiring school furniture, fixtures, or equipment. For charter  
14 schools, the fund shall only be used to acquire buildings in which  
15 students enrolled in the charter school will be attending. It is  
16 hereby declared that the term "school districts" as used in Section  
17 32 of Article X of the Oklahoma Constitution shall mean school  
18 districts and charter schools created pursuant to the provisions of  
19 the Oklahoma Charter Schools Act. If sufficient monies are  
20 available in the fund, the Board shall solicit proposals for grants  
21 from school districts and charter schools and shall determine the  
22 process for consideration of proposals. Grants shall be awarded  
23 only to school districts which have a total assessed property  
24 valuation per average daily membership that is less than the state

1 average total assessed property valuation per average daily  
2 membership and, at the time of application, the district has voted  
3 the five-mill building fund levy authorized in Section 10 of Article  
4 X of the Oklahoma Constitution, and has voted indebtedness through  
5 the issuance of new bonds for at least fifty percent (50%) within  
6 the last three (3) years of the maximum allowable pursuant to the  
7 provisions of Section 26 of Article X of the Oklahoma Constitution  
8 as shown on the school district budget filed with the State Board of  
9 Equalization for the current school year and certifications by the  
10 Attorney General prior to April 1 of the school year. Grants shall  
11 be awarded only to charter schools which have secured matching funds  
12 for the specific purpose of acquiring buildings in an amount of not  
13 less than ten percent (10%) of the total grant amount. The amount  
14 of each grant awarded by the Board each year shall not exceed Four  
15 Million Dollars (\$4,000,000.00). From the total amount available to  
16 provide grants to public schools and charter schools, charter  
17 schools shall be allocated the greater of ten percent (10%) of the  
18 total amount or the percent of students enrolled in charter schools  
19 that are not sponsored by the Statewide Virtual Charter School Board  
20 as compared to the student enrollment in school districts which have  
21 a total assessed property valuation per average daily membership  
22 that is equal to or less than twenty-five percent (25%) of the state  
23 total assessed property valuation per average daily membership. The  
24 Board shall give priority consideration to school districts which

1 have a total assessed property valuation per average daily  
2 membership that is equal to or less than twenty-five percent (25%)  
3 of the state average total assessed property valuation per average  
4 daily membership. The Board is authorized to prorate grants awarded  
5 if monies are not sufficient in the fund to award grants to  
6 qualified districts and charter schools. The State Board of  
7 Education shall make available to eligible charter schools any  
8 unused grant funds that remain after the initial allocation to all  
9 eligible public school districts and charter schools of this state.  
10 The State Board of Education shall prescribe rules for making grants  
11 of aid from, and for otherwise administering, the fund pursuant to  
12 the provisions of this paragraph, and may employ and fix the duties  
13 and compensation of technicians, aides, clerks, stenographers,  
14 attorneys and other personnel deemed necessary to carry out the  
15 provisions of this paragraph. The cost of administering the fund  
16 shall be paid from monies appropriated to the State Board of  
17 Education for the operation of the State Department of Education;

18 22. Recognize that the Director of the Oklahoma Department of  
19 Corrections shall be the administrative authority for the schools  
20 which are maintained in the state reformatories and shall appoint  
21 the principals and teachers in such schools. Provided, that rules  
22 of the State Board of Education for the classification, inspection  
23 and accreditation of public schools shall be applicable to such  
24

1 schools; and such schools shall comply with standards set by the  
2 State Board of Education; ~~and~~

3 23. Have authority to administer a revolving fund which is  
4 hereby created in the State Treasury, to be designated the  
5 Statistical Services Revolving Fund. The fund shall consist of all  
6 monies received from the various school districts of the state, the  
7 United States Government, and other sources for the purpose of  
8 furnishing or financing statistical services and for any other  
9 purpose as designated by the Legislature. The State Board of  
10 Education is hereby authorized to enter into agreements with school  
11 districts, municipalities, the United States Government, foundations  
12 and other agencies or individuals for services, programs or research  
13 projects. The Statistical Services Revolving Fund shall be  
14 administered in accordance with Section 155 of Title 62 of the  
15 Oklahoma Statutes; and

16 24. Have the authority to conduct investigations necessary to  
17 implement the provisions of this title.

18 SECTION 3. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 3-104.9 of Title 70, unless  
20 there is created a duplication in numbering, reads as follows:

21 The State Board of Education shall promulgate rules necessary to  
22 implement the provisions of this act.

23 SECTION 4. REPEALER 70 O.S. 2011, Section 3-104.1 is  
24 hereby repealed.

1 SECTION 5. This act shall become effective July 1, 2015.

2 SECTION 6. It being immediately necessary for the preservation  
3 of the public peace, health and safety, an emergency is hereby  
4 declared to exist, by reason whereof this act shall take effect and  
5 be in full force from and after its passage and approval.

6  
7 55-1-91

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