

1 **SENATE FLOOR VERSION**

2 February 26, 2019

3 SENATE BILL NO. 372

By: Bice

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6 An Act relating to the State Board of Education;
7 amending 70 O.S. 2011, Section 3-104, as last amended
8 by Section 1, Chapter 271, O.S.L. 2013 (70 O.S. Supp.
9 2018, Section 3-104), which relates to powers and
10 duties of the State Board of Education; authorizing
the board to require the production of certain
information relevant to certain investigation;
providing an effective date; and declaring an
emergency.

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

14 SECTION 1. AMENDATORY 70 O.S. 2011, Section 3-104, as
15 last amended by Section 1, Chapter 271, O.S.L. 2013 (70 O.S. Supp.
16 2018, Section 3-104), is amended to read as follows:

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

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

23 2. Appoint, prescribe the duties and fix the compensation of a
24 secretary, an attorney and all other personnel necessary for the

1 proper performance of the functions of the State Board of Education.

2 The secretary shall not be a member of the Board;

3 3. Submit to the Governor a departmental budget based upon
4 major functions of the Department as prepared by the State
5 Superintendent of Public Instruction and supported by detailed data
6 on needs and proposed operations as partially determined by the
7 budgetary needs of local school districts filed with the State Board
8 of Education for the ensuing fiscal year. Appropriations therefor
9 shall be made in lump-sum form for each major item in the budget as
10 follows:

11 a. State Aid to schools,

12 b. the supervision of all other functions of general and
13 special education including general control, free
14 textbooks, school lunch, Indian education and all
15 other functions of the Board and an amount sufficient
16 to adequately staff and administer these services, and

17 c. the Board shall determine the details by which the
18 budget and the appropriations are administered.

19 Annually, the Board shall make preparations to
20 consolidate all of the functions of the Department in
21 such a way that the budget can be based on two items,
22 administration and aid to schools. A maximum amount
23 for administration shall be designated as a part of
24 the total appropriation;

1 4. On the first day of December preceding each regular session
2 of the Legislature, prepare and deliver to the Governor and the
3 Legislature a report for the year ending June 30 immediately
4 preceding the regular session of the Legislature. The report shall
5 contain:

6 a. detailed statistics and other information concerning
7 enrollment, attendance, expenditures including State
8 Aid, and other pertinent data for all public schools
9 in this state,

10 b. reports from each and every division within the State
11 Department of Education as submitted by the State
12 Superintendent of Public Instruction and any other
13 division, department, institution or other agency
14 under the supervision of the Board,

15 c. recommendations for the improvement of the public
16 school system of the state,

17 d. a statement of the receipts and expenditures of the
18 State Board of Education for the past year, and

19 e. a statement of plans and recommendations for the
20 management and improvement of public schools and such
21 other information relating to the educational
22 interests of the state as may be deemed necessary and
23 desirable;
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1 5. Provide for the formulation and adoption of curricula,
2 courses of study and other instructional aids necessary for the
3 adequate instruction of pupils in the public schools;

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

16 a. the State Department of Education shall not issue a
17 certificate to and shall revoke the certificate of any
18 person who has been convicted, whether upon a verdict
19 or plea of guilty or upon a plea of nolo contendere,
20 or received a suspended sentence or any probationary
21 term for a crime or an attempt to commit a crime
22 provided for in Section 843.5 of Title 21 of the
23 Oklahoma Statutes if the offense involved sexual abuse
24 or sexual exploitation as those terms are defined in

1 Section 1-1-105 of Title 10A of the Oklahoma Statutes,
2 Sections 741, 843.1, if the offense included sexual
3 abuse or sexual exploitation, 865 et seq., 885, 888,
4 891, 1021, 1021.2, 1021.3, 1040.13a, 1087, 1088,
5 1111.1, 1114 or 1123 of Title 21 of the Oklahoma
6 Statutes or who enters this state and who has been
7 convicted, received a suspended sentence or received a
8 deferred judgment for a crime or attempted crime
9 which, if committed or attempted in this state, would
10 be a crime or an attempt to commit a crime provided
11 for in any of said laws,

- 12 b. all funds collected by the State Department of
13 Education for the issuance of certificates to
14 instructional, supervisory and administrative
15 personnel in the public schools of the state shall be
16 deposited in the "Teachers' Certificate Fund" in the
17 State Treasury and may be expended by the State Board
18 of Education to finance the activities of the State
19 Department of Education necessary to administer the
20 program, for consultative services, publication costs,
21 actual and necessary travel expenses as provided in
22 the State Travel Reimbursement Act incurred by persons
23 performing research work, and other expenses found
24 necessary by the State Board of Education for the

1 improvement of the preparation and certification of
2 teachers in Oklahoma. Provided, any unobligated
3 balance in the Teachers' Certificate Fund in excess of
4 Ten Thousand Dollars (\$10,000.00) on June 30 of any
5 fiscal year shall be transferred to the General
6 Revenue Fund of the State of Oklahoma. Until July 1,
7 1997, the State Board of Education shall have
8 authority for approval of teacher education programs.
9 The State Board of Education shall also have authority
10 for the administration of teacher residency and
11 professional development, subject to the provisions of
12 the Oklahoma Teacher Preparation Act;

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

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

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

23 Private and parochial schools may be accredited and classified
24 in like manner as public schools or, if an accrediting association

1 is approved by the State Board of Education, by procedures
2 established by the State Board of Education to accept accreditation
3 by such accrediting association, if application is made to the State
4 Board of Education for such accrediting;

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

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

18 10. Be and is hereby designated as the "State Educational
19 Agency" referred to in Public Law 396 of the 79th Congress of the
20 United States, which law states that said act may be cited as the
21 "National School Lunch Act", and said State Board of Education is
22 hereby authorized and directed to accept the terms and provisions of
23 said act and to enter into such agreements, not in conflict with the
24 Constitution of Oklahoma or the Constitution and Statutes of the

1 United States, as may be necessary or appropriate to secure for the
2 State of Oklahoma the benefits of the school lunch program
3 established and referred to in said act;

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

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

16 13. Have authority to require persons having administrative
17 control of all school districts in Oklahoma to make such regular and
18 special reports regarding the activities of the schools in said
19 districts as the Board may deem needful for the proper exercise of
20 its duties and functions. Such authority shall include the right of
21 the State Board of Education to withhold all state funds under its
22 control, to withhold official recognition, including accrediting,
23 until such required reports have been filed and accepted in the
24

1 office of said Board and to revoke the certificates of persons
2 failing or refusing to make such reports;

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

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

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

3 17. Have authority to provide for the health and safety of
4 school children and school personnel while under the jurisdiction of
5 school authorities;

6 18. Provide for the supervision of the transportation of
7 pupils;

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

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

16 21. Administer the State Public Common School Building
17 Equalization Fund established by Section 32 of Article X of the
18 Oklahoma Constitution. Any monies as may be appropriated or
19 designated by the Legislature, other than ad valorem taxes, any
20 other funds identified by the State Department of Education, which
21 may include, but not be limited to, grants-in-aid from the federal
22 government for building purposes, the proceeds of all property that
23 shall fall to the state by escheat, penalties for unlawful holding
24 of real estate by corporations, and capital gains on assets of the

1 permanent school funds, shall be deposited in the State Public
2 Common School Building Equalization Fund. The fund shall be used to
3 aid school districts and charter schools in acquiring buildings,
4 subject to the limitations fixed by Section 32 of Article X of the
5 Oklahoma Constitution. It is hereby declared that the term
6 "acquiring buildings" as used in Section 32 of Article X of the
7 Oklahoma Constitution shall mean acquiring or improving school
8 sites, constructing, repairing, remodeling or equipping buildings,
9 or acquiring school furniture, fixtures, or equipment. For charter
10 schools, the fund shall only be used to acquire buildings in which
11 students enrolled in the charter school will be attending. It is
12 hereby declared that the term "school districts" as used in Section
13 32 of Article X of the Oklahoma Constitution shall mean school
14 districts and charter schools created pursuant to the provisions of
15 the Oklahoma Charter Schools Act. If sufficient monies are
16 available in the fund, the Board shall solicit proposals for grants
17 from school districts and charter schools and shall determine the
18 process for consideration of proposals. Grants shall be awarded
19 only to school districts which have a total assessed property
20 valuation per average daily membership that is less than the state
21 average total assessed property valuation per average daily
22 membership and, at the time of application, the district has voted
23 the five-mill building fund levy authorized in Section 10 of Article
24 X of the Oklahoma Constitution, and has voted indebtedness through

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

1 if monies are not sufficient in the fund to award grants to
2 qualified districts and charter schools. The State Board of
3 Education shall make available to eligible charter schools any
4 unused grant funds that remain after the initial allocation to all
5 eligible public school districts and charter schools of this state.
6 The State Board of Education shall prescribe rules for making grants
7 of aid from, and for otherwise administering, the fund pursuant to
8 the provisions of this paragraph, and may employ and fix the duties
9 and compensation of technicians, aides, clerks, stenographers,
10 attorneys and other personnel deemed necessary to carry out the
11 provisions of this paragraph. The cost of administering the fund
12 shall be paid from monies appropriated to the State Board of
13 Education for the operation of the State Department of Education;

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

22 23. Have authority to administer a revolving fund which is
23 hereby created in the State Treasury, to be designated the
24 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 Section 155 of Title 62 of the Oklahoma Statutes; and

24. If the Board is unable to obtain the requested information, have authority to require the production of, by subpoena or other means, any records, books, papers, documents, other tangible things which constitute evidence which the Board finds relevant or material to an investigation relating to its functions as set forth in this section.

SECTION 2. This act shall become effective July 1, 2019.

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

COMMITTEE REPORT BY: COMMITTEE ON EDUCATION
February 26, 2019 - DO PASS