An Act

ENROLLED HOUSE
BILL NO. 2139

By: Steele, Nelson, Newell and Kern of the House

and

Bingman and Ford of the Senate

An Act relating to schools; amending 70 O.S. 2001, Section 1-105, which relates to the State Department of Education definition; expanding authority over certain agencies to the State Superintendent of Public Instruction; modifying authority of the State Board of Education and the State Superintendent of Public Instruction; amending 70 O.S. 2001, Section 1-115, which relates to administration of the public school system in Oklahoma; updating statutory references; deleting obsolete language; amending 70 O.S. 2001, Section 3-101, as amended by Section 15, Chapter 375, O.S.L. 2002 and 3-104, as last amended by Section 73, Chapter 2, O.S.L. 2010 (70 O.S. Supp. 2010, Sections 3-101 and 3-104), which relate to the State Board of Education; modifying the role of the State Board of Education; modifying powers and duties of the State Board of Education; amending 70 O.S. 2001, Section 3-106, which relates to the office of the State Superintendent of Public Instruction; updating statutory language; amending 70 O.S. 2001, Section 3-107, which relates to the administrative and executive duties of the State Superintendent of Public Instruction; clarifying language; adding duty to control and direct the State Department of Education; providing for the control and direction of the State Department of Education; establishing the powers and duties of the State Superintendent of Public Instruction; and providing for codification.

SUBJECT: Education

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

SECTION 1. AMENDATORY 70 O.S. 2001, Section 1-105, is amended to read as follows:

Section 1-105. A. The State Department of Education is that department of the state government in which the agencies created or authorized by the Constitution and Legislature are placed and charged with the responsibility of determining the policies and directing the administration and supervision of the public school system of the state. These agencies are the State Board of Education, the State Superintendent of Public Instruction and ~~such~~ any divisions and positions as may be established by law ~~and~~, by the State Board of Education or by the State Superintendent of Public Instruction.

B. The State Board of Education is that agency in the State Department of Education which shall be the governing board of ~~said Department and~~ the public school system of the state.

C. The State Superintendent of Public Instruction is the official provided for in Section 1 of Article VI~~, Section 1,~~ of the Oklahoma Constitution ~~of Oklahoma~~ who shall be the executive officer of the State Board of Education and have control of and direct the State Department of Education.

SECTION 2. AMENDATORY 70 O.S. 2001, Section 1-115, is amended to read as follows:

Section 1-115. The public school system in Oklahoma shall be administered by the State Department of Education, State Superintendent of ~~Schools~~ Public Instruction, ~~county superintendents of schools,~~ boards of education of school districts, and superintendents of ~~schools of independent~~ school districts.

SECTION 3. AMENDATORY 70 O.S. 2001, Section 3-101, as amended by Section 15, Chapter 375, O.S.L. 2002 (70 O.S. Supp. 2010, Section 3-101), is amended to read as follows:

Section 3-101. The State Board of Education ~~shall be the governing board of the State Department of Education and~~ shall consist of seven (7) members. The State Superintendent of Public Instruction shall be a member and the chairperson of said Board.

The remaining six members shall be appointed by the Governor by and with the advice and consent of the Senate. No person shall be eligible to be appointed to serve on the State Board unless said person has been awarded a high school diploma or certificate of high school equivalency. Any member appointed to the State Board after ~~the effective date of this act~~ May 20, 1994, shall complete the workshop requirements of a new school board member pursuant to Section 5-110 of this title within thirteen (13) months following or preceding the appointment of the member. Notwithstanding any provision of law to the contrary, the State Department of Education shall not charge any member of the State Board of Education a fee for any workshop provided by the Department for board members pursuant to Section 5-110 of this title and shall not pay a fee to any organization or institution of higher education on behalf of a member of the State Board of Education, or reimburse any member of the Board for a fee paid to any organization or institution of higher education, for attendance at a workshop or courses to satisfy the requirements of Section 5-110 of this title.

The Governor shall appoint one member to serve for one (1) year; one member to serve for two (2) years; one member to serve for three (3) years; one member to serve for four (4) years; one member to serve for five (5) years; and one member to serve for six (6) years. Said members shall serve until their successors are duly appointed and qualified. Their successors shall be appointed for a term of six (6) years, and thereafter the term of each member of ~~said~~ the Board shall be six (6) years. An appointment shall be made to take effect on April 2 of each year. Except for the State Superintendent of Public Instruction, a member shall be appointed from each congressional district, and any remaining members shall be appointed from the state at large, not to exceed more than one member from any one county, city or town. However, when congressional districts are redrawn each member appointed prior to July 1 of the year in which such modification becomes effective shall complete the current term of office and appointments made after July 1 of the year in which such modification becomes effective shall be based on the redrawn districts. Appointments made after July 1 of the year in which such modification becomes effective shall be from any redrawn districts which are not represented by a board member until such time as each of the modified congressional districts are represented by a board member. No appointments may be made after July 1 of the year in which such modification becomes effective if such appointment would result in more than two members serving from the same modified district. Upon the occurrence of a vacancy the same shall be filled by the Governor, subject to confirmation by the Senate at the next

session of the Legislature, such appointments to be made for the unexpired term.

Terms of the members shall be staggered so that only one term expires each year. ~~Each member~~ Members of the Board shall receive necessary traveling expenses while in the performance of ~~his~~ their duties in accordance with the State Travel Reimbursement Act~~, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes~~.

Provided, that persons serving as members of the State Board of Education on ~~the effective date of this act~~ May 20, 1994, shall continue to serve as members of the State Board of Education for the terms for which they were appointed.

SECTION 4. AMENDATORY 70 O.S. 2001, Section 3-104, as last amended by Section 73, Chapter 2, O.S.L. 2010 (70 O.S. Supp. 2010, 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.~~ 2. 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.~~ 3. Submit to the Governor a departmental budget based upon major functions of the Department as prepared by the State Superintendent of Public Instruction and 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.~~ 4. 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~~ the regular session of the Legislature. ~~Said~~ The 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 within the State Department of Education as submitted by the State

Superintendent of Public Instruction and any other 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.~~ 5. 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.~~ 6. 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 843.5 of Title 21 of the Oklahoma Statutes if the offense involved sexual abuse or sexual exploitation as those terms are defined in Section 1-1-105 of Title 10A 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, 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.~~ 7. 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.~~ 8. 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.~~ 9. 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.~~ 10. 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.~~ 11. 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.~~ 12. 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.~~ 13. 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.~~ 14. 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.~~ 15. 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.~~ 16. Provide for the establishment of a uniform system of pupil and personnel accounting, records and reports;

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

~~21.~~ 18. Provide for the supervision of the transportation of pupils;

~~22.~~ 19. 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.~~ 20. 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.~~ 21. 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 the State Public Common School Building Equalization Fund. The fund shall be used to aid school districts in acquiring buildings, 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, 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 carry out the provisions of this paragraph. The cost of administering the fund shall be paid from monies appropriated to the State Board of Education for the operation of the State Department of Education;

~~25.~~ 22. 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.~~ 23. 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.~~ 24. 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 5. AMENDATORY 70 O.S. 2001, Section 3-106, is amended to read as follows:

Section 3-106. The State Superintendent of Public Instruction shall have an office at the seat of government where ~~he shall keep~~ all books and papers pertaining to ~~his~~ the office of the Superintendent shall be kept. ~~Such~~ The books and papers shall be kept and preserved in ~~said~~ the office and delivered by the Superintendent of Public Instruction to ~~his~~ a successor. ~~He~~ The Superintendent shall file and carefully preserve in ~~his~~ the office all official reports made to ~~him~~ the Superintendent. The salary of the State Superintendent of Public Instruction shall be as provided for in Section 250.4 of Title 74 of the Oklahoma Statutes.

SECTION 6. AMENDATORY 70 O.S. 2001, Section 3-107, is amended to read as follows:

Section 3-107. The State Superintendent of Public Instruction is hereby authorized to administer oaths. ~~He shall, upon~~ Upon proper request, the State Superintendent shall advise ~~county superintendents of schools and~~ school district superintendents ~~of schools~~ and ~~area~~ technology center school district superintendents on questions as to the powers, duties and functions of school district officials, and each two (2) years ~~he~~ shall cause to be compiled, published and distributed to boards of education and other public officials ~~he believes should receive the same,~~ as deemed necessary the school laws in force~~, with such~~. The school laws shall include court decisions, Attorney General's opinions and other informative matter relating to the school laws as ~~he deems~~ deemed appropriate~~; and he~~. The State Superintendent shall have control of and direct the State Department of Education and shall perform ~~such~~ any other duties pertaining to the public school system as shall be prescribed by law or the State Board of Education. ~~He~~ The State Superintendent may affiliate with the National Council of Chief State School Officers and ~~such~~ any other national and state organizations as ~~he believes~~ will be of service and benefit to the public school system of Oklahoma, and dues or assessments for membership therein shall be payable from any appropriation that is available for the payment of current operative expenses of the State Department of Education.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-107.1 of Title 70, unless there is created a duplication in numbering, reads as follows:

The State Superintendent of Public Instruction shall have the control of and direct the State Department of Education. In

addition to any other powers and duties as set forth by the Oklahoma Constitution or by law, the State Superintendent shall:

1. Give advice and make recommendations to the State Board of Education on all matters pertaining to the policies and administration of the public school system;

2. Adopt policies and make rules for the organization, operation and administration of the State Department of Education;

3. Organize and have control of the administration of the State Department of Education and any other supervisory agencies, divisions, personnel and their appointment and salaries and other operations necessary to carry out the powers, duties and functions of the State Superintendent and the State Board of Education;

4. Have authority to require the coordination of all divisions of the State Department of Education and have general supervision of all employees of the Department;

5. Present all recommendations of the Department to the State Board and require employees of the Department to present specific matters directly to the State Board; and

6. Be responsible for interpretation of policy and rules set by the State Board.

Passed the House of Representatives the 2nd day of March, 2011.

Presiding Officer of the House of Representatives

Passed the Senate the 31st day of March, 2011.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 4th

day of April, **20** 11,

at 2:36 **o'clock** P. **M.**

By: Jessica R. Pagan

Approved by the Governor of the State of Oklahoma the 8th **day of** April, **20** 11, **at** 4:11 **o'clock** P **M.**

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this 8th **day of** April, **20** 11,

at 4:24 **o'clock** P **M.**

By: Michelle R Day