

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 58th Legislature (2022)

4 HOUSE BILL 3432

 By: Kerbs, **Baker, Sims** and
 Hilbert

7 AS INTRODUCED

8 An Act relating to agriculture; designating the
9 Oklahoma Department of Agriculture, Food, and
10 Forestry as the state educational agency referenced
11 by the National School Lunch Act; providing that the
12 Oklahoma Department of Agriculture, Food, and
13 Forestry may secure and administer the benefits of
14 the National School Lunch Act; directing the Oklahoma
15 Department of Agriculture, Food, and Forestry to
16 provide general supervision of the school lunch
17 program; creating the School Lunch Workshop Revolving
18 Fund; providing for the allocation of funds for the
19 school lunch program; amending 70 O.S. 2021, Section
20 3-104, which relates to the State Board of
21 Education's powers and duties; removing the State
22 Board of Education from overseeing and administering
23 school lunch program under the National School Lunch
24 Act; repealing 70 O.S. 2021, Section 3-119, which
 relates to the school lunch program; providing for
 codification; and providing an effective date.

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

21 SECTION 1. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 3041 of Title 2, unless there is
23 created a duplication in numbering, reads as follows:
24

1 The Oklahoma Department of Agriculture, Food, and Forestry
2 shall:

3 1. Be and is hereby designated as the "State Educational
4 Agency" referred to in Public Law 396 of the 79th Congress of the
5 United States, which law states that said act may be cited as the
6 "National School Lunch Act", and said Oklahoma Department of
7 Agriculture, Food, and Forestry is hereby authorized and directed to
8 accept the terms and provisions of said act and to enter into such
9 agreements, not in conflict with the Constitution of Oklahoma or the
10 Constitution and statutes of the United States, as may be necessary
11 or appropriate to secure for the State of Oklahoma the benefits of
12 the school lunch program established and referred to in said act;

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

21 3. Have general supervision of the school lunch program. The
22 Oklahoma Department of Agriculture, Food, and Forestry may sponsor
23 workshops for personnel and participants in the school lunch program
24 and may develop, print, and distribute free of charge or sell any

1 materials, books, and bulletins to be used in such school lunch
2 programs. There is hereby created in the State Treasury a revolving
3 fund for the Oklahoma Department of Agriculture, Food, and Forestry,
4 to be designated the "School Lunch Workshop Revolving Fund". The
5 fund shall consist of all fees derived from or on behalf of any
6 participant in any such workshop sponsored by the Oklahoma
7 Department of Agriculture, Food, and Forestry, or from the sale of
8 any materials, books, and bulletins, and such funds shall be
9 disbursed for expenses of such workshops and for developing,
10 printing, and distributing such materials, books, and bulletins
11 related to the school lunch program. The fund shall be administered
12 in accordance with Section 155 of Title 62 of the Oklahoma Statutes.

13 SECTION 2. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 3042 of Title 2, unless there is
15 created a duplication in numbering, reads as follows:

16 Funds appropriated to the Oklahoma Department of Agriculture,
17 Food, and Forestry for school lunch matching and the school lunch
18 program shall be apportioned by the Oklahoma Department of
19 Agriculture, Food, and Forestry to each school district for the
20 purpose of providing meals for children in compliance with the
21 National School Lunch Act and the Child Nutrition Act of 1966 and
22 Public Law 91-248, as they may hereafter be amended or supplemented.

23 SECTION 3. AMENDATORY 70 O.S. 2021, Section 3-104, is
24 amended to read as follows:

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

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

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

11 3. Submit to the Governor a departmental budget based upon
12 major functions of the Department as prepared by the State
13 Superintendent of Public Instruction and supported by detailed data
14 on needs and proposed operations as partially determined by the
15 budgetary needs of local school districts filed with the State Board
16 of Education for the ensuing fiscal year. Appropriations therefor
17 shall be made in lump-sum form for each major item in the budget as
18 follows:

19 a. State Aid to schools,

20 b. the supervision of all other functions of general and
21 special education including general control, free
22 textbooks, school lunch, Indian education and all
23 other functions of the Board and an amount sufficient
24 to adequately staff and administer these services, and

1 c. the Board shall determine the details by which the
2 budget and the appropriations are administered.
3 Annually, the Board shall make preparations to
4 consolidate all of the functions of the Department in
5 such a way that the budget can be based on two items,
6 administration and aid to schools. A maximum amount
7 for administration shall be designated as a part of
8 the total appropriation;

9 4. On the first day of December preceding each regular session
10 of the Legislature, prepare and deliver to the Governor and the
11 Legislature a report for the year ending June 30 immediately
12 preceding the regular session of the Legislature. The report shall
13 contain:

14 a. detailed statistics and other information concerning
15 enrollment, attendance, expenditures including State
16 Aid, and other pertinent data for all public schools
17 in this state,

18 b. reports from each and every division within the State
19 Department of Education as submitted by the State
20 Superintendent of Public Instruction and any other
21 division, department, institution or other agency
22 under the supervision of the Board,

23 c. recommendations for the improvement of the public
24 school system of the state,

- 1 d. a statement of the receipts and expenditures of the
2 State Board of Education for the past year, and
3 e. a statement of plans and recommendations for the
4 management and improvement of public schools and such
5 other information relating to the educational
6 interests of the state as may be deemed necessary and
7 desirable;

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

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

- 23 a. the State Department of Education shall not issue a
24 certificate to and shall revoke the certificate of any

1 person who has been convicted, whether upon a verdict
2 or plea of guilty or upon a plea of nolo contendere,
3 or received a suspended sentence or any probationary
4 term for a crime or an attempt to commit a crime
5 provided for in Section 843.5 of Title 21 of the
6 Oklahoma Statutes if the offense involved sexual abuse
7 or sexual exploitation as those terms are defined in
8 Section 1-1-105 of Title 10A of the Oklahoma Statutes,
9 Section 741, 843.1, if the offense included sexual
10 abuse or sexual exploitation, 865 et seq., 885, 888,
11 891, 1021, 1021.2, 1021.3, 1040.13a, 1087, 1088,
12 1111.1, 1114 or 1123 of Title 21 of the Oklahoma
13 Statutes or who enters this state and who has been
14 convicted, received a suspended sentence or received a
15 deferred judgment for a crime or attempted crime
16 which, if committed or attempted in this state, would
17 be a crime or an attempt to commit a crime provided
18 for in any of said laws, and

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

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

20 7. Promulgate rules governing the classification, inspection,
21 supervision and accrediting of all public nursery, kindergarten,
22 elementary and secondary schools and on-site educational services
23 provided by public school districts or state-accredited private
24 schools in partial hospitalization programs, day treatment programs,

1 and day hospital programs as defined in this act for persons between
2 the ages of three (3) and twenty-one (21) years of age in the state.
3 However, no school shall be denied accreditation solely on the basis
4 of average daily attendance.

5 Any school district which maintains an elementary school and
6 faces the necessity of relocating its school facilities because of
7 construction of a lake, either by state or federal authority, which
8 will inundate the school facilities, shall be entitled to receive
9 probationary accreditation from the State Board of Education for a
10 period of five (5) years after the effective date of this act and
11 any school district, otherwise qualified, shall be entitled to
12 receive probationary accreditation from the State Board of Education
13 for a period of two (2) consecutive years to attain the minimum
14 average daily attendance. The Head Start and public nurseries or
15 kindergartens operated from Community Action Program funds shall not
16 be subjected to the accrediting rules of the State Board of
17 Education. Neither will the State Board of Education make rules
18 affecting the operation of the public nurseries and kindergartens
19 operated from federal funds secured through Community Action
20 Programs even though they may be operating in the public schools of
21 the state. However, any of the Head Start or public nurseries or
22 kindergartens operated under federal regulations may make
23 application for accrediting from the State Board of Education but
24 will be accredited only if application for the approval of the

1 programs is made. The status of no school district shall be changed
2 which will reduce it to a lower classification until due notice has
3 been given to the proper authorities thereof and an opportunity
4 given to correct the conditions which otherwise would be the cause
5 of such reduction.

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

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

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

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

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

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

23 ~~13.~~ 11. Have authority to require persons having administrative
24 control of all school districts in Oklahoma to make such regular and

1 special reports regarding the activities of the schools in said
2 districts as the Board may deem needful for the proper exercise of
3 its duties and functions. Such authority shall include the right of
4 the State Board of Education to withhold all state funds under its
5 control, to withhold official recognition, including accrediting,
6 until such required reports have been filed and accepted in the
7 office of said Board and to revoke the certificates of persons
8 failing or refusing to make such reports;

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

1 ~~15.~~ 12. Prescribe all forms for school district and county
2 officers to report to the State Board of Education where required.
3 The State Board of Education shall also prescribe a list of
4 appropriation accounts by which the funds of school districts shall
5 be budgeted, accounted for and expended; and it shall be the duty of
6 the State Auditor and Inspector in prescribing all budgeting,
7 accounting and reporting forms for school funds to conform to such
8 lists;

9 ~~16.~~ 13. Provide for the establishment of a uniform system of
10 pupil and personnel accounting, records and reports;

11 ~~17.~~ 14. Have authority to provide for the health and safety of
12 school children and school personnel while under the jurisdiction of
13 school authorities;

14 ~~18.~~ 15. Provide for the supervision of the transportation of
15 pupils;

16 ~~19.~~ 16. Have authority, upon request of the local school board,
17 to act in behalf of the public schools of the state in the purchase
18 of transportation equipment;

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

1 ~~21.~~ 18. Administer the State Public Common School Building
2 Equalization Fund established by Section 32 of Article X of the
3 Oklahoma Constitution. Any monies as may be appropriated or
4 designated by the Legislature, other than ad valorem taxes, any
5 other funds identified by the State Department of Education, which
6 may include, but not be limited to, grants-in-aid from the federal
7 government for building purposes, the proceeds of all property that
8 shall fall to the state by escheat, penalties for unlawful holding
9 of real estate by corporations, and capital gains on assets of the
10 permanent school funds, shall be deposited in the State Public
11 Common School Building Equalization Fund. The fund shall be used to
12 aid school districts and charter schools in acquiring buildings,
13 subject to the limitations fixed by Section 32 of Article X of the
14 Oklahoma Constitution. It is hereby declared that the term
15 "acquiring buildings" as used in Section 32 of Article X of the
16 Oklahoma Constitution shall mean acquiring or improving school
17 sites, constructing, repairing, remodeling or equipping buildings,
18 or acquiring school furniture, fixtures, or equipment. It is hereby
19 declared that the term "school districts" as used in Section 32 of
20 Article X of the Oklahoma Constitution shall mean school districts
21 and eligible charter schools as defined in subsection B of this
22 section. The State Board of Education shall disburse redbud school
23 grants annually from the State Public Common School Building
24 Equalization Fund to public schools and eligible charter schools

1 pursuant to subsection B of this section. The Board shall
2 promulgate rules for the implementation of disbursing redbud school
3 grants pursuant to this section. The State Board of Education shall
4 prescribe rules for making grants of aid from, and for otherwise
5 administering, the fund pursuant to the provisions of this
6 paragraph, and may employ and fix the duties and compensation of
7 technicians, aides, clerks, stenographers, attorneys and other
8 personnel deemed necessary to carry out the provisions of this
9 paragraph. The cost of administering the fund shall be paid from
10 monies appropriated to the State Board of Education for the
11 operation of the State Department of Education. From monies
12 apportioned to the fund, the State Department of Education may
13 reserve not more than one-half of one percent (1/2 of 1%) for
14 purposes of administering the fund;

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

23 ~~23.~~ 20. Have authority to administer a revolving fund which is
24 hereby created in the State Treasury, to be designated the

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

12 B. 1. The redbud school grants shall be determined by the
13 State Department of Education as follows:

- 14 a. divide the county four-mill levy revenue by four to
15 determine the nonchargeable county four-mill revenue
16 for each school district,
- 17 b. determine the amount of new revenue generated by the
18 five-mill building fund levy as authorized by Section
19 10 of Article X of the Oklahoma Constitution for each
20 school district as reported in the Oklahoma Cost
21 Accounting System for the preceding fiscal year,
- 22 c. add the amounts calculated in subparagraphs a and b of
23 this paragraph to determine the nonchargeable millage
24 for each school district,

- 1 d. add the nonchargeable millage in each district
2 statewide as calculated in subparagraph c of this
3 paragraph and divide the total by the average daily
4 membership in public schools statewide based on the
5 preceding school year's average daily membership,
6 according to the provisions of Section 18-107 of this
7 title. This amount is the statewide nonchargeable
8 millage per student, known as the baseline local
9 funding per student,
- 10 e. all eligible charter schools shall be included in
11 these calculations as unique school districts,
12 separate from the school district that may sponsor the
13 eligible charter school, and the total number of
14 districts shall be used to determine the statewide
15 average baseline local funding per student,
- 16 f. for each school district or eligible charter school
17 which is below the baseline local funding per student,
18 the Department shall subtract the baseline local
19 funding per student from the average nonchargeable
20 millage per student of the school district or eligible
21 charter school to determine the nonchargeable millage
22 per student shortfall for each district, and
- 23 g. the nonchargeable millage per student shortfall for a
24 school district or eligible charter school shall be

1 multiplied by the average daily membership of the
2 preceding school year of the eligible school district
3 or eligible charter school. This amount shall be the
4 redbud school grant amount for the school district or
5 eligible charter school.

6 2. For fiscal year 2022, monies for the redbud school grants
7 shall be expended from the funds apportioned pursuant to Section 2
8 426 of this act Title 63 of the Oklahoma Statutes. For fiscal year
9 2023 and each subsequent fiscal year, monies for the redbud school
10 grants shall be appropriated pursuant to Section 2 426 of this act
11 Title 63 of the Oklahoma Statutes, not to exceed three-fourths (3/4)
12 of the tax collected in the preceding fiscal year pursuant to
13 Section 426 of Title 63 of the Oklahoma Statutes as determined by
14 the Oklahoma Tax Commission. For fiscal year 2023 and each
15 subsequent fiscal year, if such appropriated funds are insufficient
16 to fund the redbud school grants, then an additional apportionment
17 of funds shall be made from sales tax collections as provided by
18 subsection D of Section 3 1353 of this act Title 68 of the Oklahoma
19 Statutes. If both funds are insufficient, the Department shall
20 promulgate rules to permit a decrease to the baseline local funding
21 per student to the highest amount allowed with the funding
22 available.

23 3. As used in this section, "eligible charter school" shall
24 mean a charter school which is sponsored pursuant to the provisions

1 of the Oklahoma Charter School Act. Provided, however, "eligible
2 charter school" shall not include a charter school sponsored by the
3 Statewide Virtual Charter School Board but shall only include those
4 which provide in-person or blended instruction, as provided by
5 Section 1-111 of this title, to not less than two-thirds (2/3) of
6 students as the primary means of instructional service delivery.

7 4. The Department shall develop a program to acknowledge the
8 redbud school grant recipients and shall include elected members of
9 the Oklahoma House of Representatives and Oklahoma State Senate who
10 represent the school districts and eligible charter schools.

11 5. The Department shall create a dedicated page on its website
12 listing annual redbud school grant recipients, amount awarded to
13 each recipient and other pertinent information about the Redbud
14 School Funding Act.

15 6. The Department shall provide the Chair of the House
16 Appropriations and Budget Committee and the Chair of the Senate
17 Appropriations Committee no later than February 1 of each year with
18 an estimate of the upcoming year's redbud school grant allocation as
19 prescribed by this section.

20 SECTION 4. REPEALER 70 O.S. 2021, Section 3-119, is
21 hereby repealed.

22 SECTION 5. This act shall become effective November 1, 2022.

23 COMMITTEE REPORT BY: COMMITTEE ON COMMON EDUCATION, dated 03/01/2022
24 - DO PASS, As Coauthored.