

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

HOUSE BILL 3432

By: Kerbs

AS INTRODUCED

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

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

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

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

1. Be and is hereby designated as the "State Educational 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 Oklahoma Department of  
3 Agriculture, Food, and Forestry is hereby authorized and directed to  
4 accept the terms and provisions of said act and to enter into such  
5 agreements, not in conflict with the Constitution of Oklahoma or the  
6 Constitution and statutes of the United States, as may be necessary  
7 or appropriate to secure for the State of Oklahoma the benefits of  
8 the school lunch program established and referred to in said act;

9 2. 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; and

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

1 fund shall consist of all fees derived from or on behalf of any  
2 participant in any such workshop sponsored by the Oklahoma  
3 Department of Agriculture, Food, and Forestry, or from the sale of  
4 any materials, books, and bulletins, and such funds shall be  
5 disbursed for expenses of such workshops and for developing,  
6 printing, and distributing such materials, books, and bulletins  
7 related to the school lunch program. The fund shall be administered  
8 in accordance with Section 155 of Title 62 of the Oklahoma Statutes.

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

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

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

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

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

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

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

15            a. State Aid to schools,

16            b. the supervision of all other functions of general and  
17 special education including general control, free  
18 textbooks, school lunch, Indian education and all  
19 other functions of the Board and an amount sufficient  
20 to adequately staff and administer these services, and

21            c. the Board shall determine the details by which the  
22 budget and the appropriations are administered.

23            Annually, the Board shall make preparations to  
24 consolidate all of the functions of the Department in

1           such a way that the budget can be based on two items,  
2           administration and aid to schools. A maximum amount  
3           for administration shall be designated as a part of  
4           the total appropriation;

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

- 10           a. detailed statistics and other information concerning  
11           enrollment, attendance, expenditures including State  
12           Aid, and other pertinent data for all public schools  
13           in this state,  
14           b. reports from each and every division within the State  
15           Department of Education as submitted by the State  
16           Superintendent of Public Instruction and any other  
17           division, department, institution or other agency  
18           under the supervision of the Board,  
19           c. recommendations for the improvement of the public  
20           school system of the state,  
21           d. a statement of the receipts and expenditures of the  
22           State Board of Education for the past year, and  
23           e. a statement of plans and recommendations for the  
24           management and improvement of public schools and such

1           other information relating to the educational  
2           interests of the state as may be deemed necessary and  
3           desirable;

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

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

19           a. the State Department of Education shall not issue a  
20 certificate to and shall revoke the certificate of any  
21 person who has been convicted, whether upon a verdict  
22 or plea of guilty or upon a plea of nolo contendere,  
23 or received a suspended sentence or any probationary  
24 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, Section 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 judgment 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, and

- 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

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

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



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

1 given to correct the conditions which otherwise would be the cause  
2 of such reduction.

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

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

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

22 10. ~~Be and is hereby designated as the "State Educational~~  
23 ~~Agency" referred to in Public Law 396 of the 79th Congress of the~~  
24 ~~United States, which law states that said act may be cited as the~~

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

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

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

20 ~~13.~~ 11. Have authority to require persons having administrative  
21 control of all school districts in Oklahoma to make such regular and  
22 special reports regarding the activities of the schools in said  
23 districts as the Board may deem needful for the proper exercise of  
24 its duties and functions. Such authority shall include the right of

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

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

21 ~~15.~~ 12. Prescribe all forms for school district and county  
22 officers to report to the State Board of Education where required.  
23 The State Board of Education shall also prescribe a list of  
24 appropriation accounts by which the funds of school districts shall

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

5 ~~16.~~ 13. Provide for the establishment of a uniform system of  
6 pupil and personnel accounting, records and reports;

7 ~~17.~~ 14. 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.~~ 15. Provide for the supervision of the transportation of  
11 pupils;

12 ~~19.~~ 16. Have authority, upon request of the local school board,  
13 to act in behalf of the public schools of the state in the purchase  
14 of transportation equipment;

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

20 ~~21.~~ 18. 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. It is hereby  
14 declared that the term "school districts" as used in Section 32 of  
15 Article X of the Oklahoma Constitution shall mean school districts  
16 and eligible charter schools as defined in subsection B of this  
17 section. The State Board of Education shall disburse redbud school  
18 grants annually from the State Public Common School Building  
19 Equalization Fund to public schools and eligible charter schools  
20 pursuant to subsection B of this section. The Board shall  
21 promulgate rules for the implementation of disbursing redbud school  
22 grants pursuant to this section. The State Board of Education shall  
23 prescribe rules for making grants of aid from, and for otherwise  
24 administering, the fund pursuant to the provisions of this

1 paragraph, and may employ and fix the duties and compensation of  
2 technicians, aides, clerks, stenographers, attorneys and other  
3 personnel deemed necessary to carry out the provisions of this  
4 paragraph. The cost of administering the fund shall be paid from  
5 monies appropriated to the State Board of Education for the  
6 operation of the State Department of Education. From monies  
7 apportioned to the fund, the State Department of Education may  
8 reserve not more than one-half of one percent ( $1/2$  of 1%) for  
9 purposes of administering the fund;

10 ~~22.~~ 19. Recognize that the Director of the Oklahoma Department  
11 of Corrections shall be the administrative authority for the schools  
12 which are maintained in the state reformatories and shall appoint  
13 the principals and teachers in such schools. Provided, that rules  
14 of the State Board of Education for the classification, inspection  
15 and accreditation of public schools shall be applicable to such  
16 schools; and such schools shall comply with standards set by the  
17 State Board of Education; and

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

1 Education is hereby authorized to enter into agreements with school  
2 districts, municipalities, the United States Government, foundations  
3 and other agencies or individuals for services, programs or research  
4 projects. The Statistical Services Revolving Fund shall be  
5 administered in accordance with Section 155 of Title 62 of the  
6 Oklahoma Statutes.

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

- 9 a. divide the county four-mill levy revenue by four to  
10 determine the nonchargeable county four-mill revenue  
11 for each school district,
- 12 b. determine the amount of new revenue generated by the  
13 five-mill building fund levy as authorized by Section  
14 10 of Article X of the Oklahoma Constitution for each  
15 school district as reported in the Oklahoma Cost  
16 Accounting System for the preceding fiscal year,
- 17 c. add the amounts calculated in subparagraphs a and b of  
18 this paragraph to determine the nonchargeable millage  
19 for each school district,
- 20 d. add the nonchargeable millage in each district  
21 statewide as calculated in subparagraph c of this  
22 paragraph and divide the total by the average daily  
23 membership in public schools statewide based on the  
24 preceding school year's average daily membership,



1 according to the provisions of Section 18-107 of this  
2 title. This amount is the statewide nonchargeable  
3 millage per student, known as the baseline local  
4 funding per student,

5 e. all eligible charter schools shall be included in  
6 these calculations as unique school districts,  
7 separate from the school district that may sponsor the  
8 eligible charter school, and the total number of  
9 districts shall be used to determine the statewide  
10 average baseline local funding per student,

11 f. for each school district or eligible charter school  
12 which is below the baseline local funding per student,  
13 the Department shall subtract the baseline local  
14 funding per student from the average nonchargeable  
15 millage per student of the school district or eligible  
16 charter school to determine the nonchargeable millage  
17 per student shortfall for each district, and

18 g. the nonchargeable millage per student shortfall for a  
19 school district or eligible charter school shall be  
20 multiplied by the average daily membership of the  
21 preceding school year of the eligible school district  
22 or eligible charter school. This amount shall be the  
23 redbud school grant amount for the school district or  
24 eligible charter school.

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

18        3. As used in this section, "eligible charter school" shall  
19 mean a charter school which is sponsored pursuant to the provisions  
20 of the Oklahoma Charter School Act. Provided, however, "eligible  
21 charter school" shall not include a charter school sponsored by the  
22 Statewide Virtual Charter School Board but shall only include those  
23 which provide in-person or blended instruction, as provided by  
24

1 Section 1-111 of this title, to not less than two-thirds (2/3) of  
2 students as the primary means of instructional service delivery.

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

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

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

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

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