

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4
5 COMMITTEE SUBSTITUTE
6 FOR
7 HOUSE BILL NO. 1840

By: Kerbs, **West (Tammy)**,
Provenzano, and **Lawson** of
the House

8 and

9 **Pugh** of the Senate

10
11 COMMITTEE SUBSTITUTE

12 An Act relating to agriculture; designating the
13 Oklahoma Department of Agriculture, Food, and
14 Forestry as the state educational agency referenced
15 by the National School Lunch Act; providing that the
16 Oklahoma Department of Agriculture, Food, and
17 Forestry may secure and administer the benefits of
18 the National School Lunch Act; directing the Oklahoma
19 Department of Agriculture, Food, and Forestry to
20 provide general supervision of the school lunch
21 program; creating the School Lunch Workshop Revolving
22 Fund; providing for the allocation of funds for the
23 school lunch program; amending 70 O.S. 2021, Section
24 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:

1 SECTION 1. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 3041 of Title 2, unless there is
3 created a duplication in numbering, reads as follows:

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

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

16 2. Have authority to secure and administer the benefits of the
17 National School Lunch Act, Public Law 396 of the 79th Congress of
18 the United States, in the State of Oklahoma and is hereby authorized
19 to employ or appoint and fix the compensation of such additional
20 officers or employees and to incur such expenses as may be necessary
21 for the accomplishment of the above purpose, administer the
22 distribution of any state funds appropriated by the Legislature
23 required as federal matching to reimburse on children's meals; and
24

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

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

20 Funds appropriated to the Oklahoma Department of Agriculture,
21 Food, and Forestry for school lunch matching and the school lunch
22 program shall be apportioned by the Oklahoma Department of
23 Agriculture, Food, and Forestry to each school district for the
24 purpose of providing meals for children in compliance with the

1 National School Lunch Act and the Child Nutrition Act of 1966 and
2 Public Law 91-248, as they may hereafter be amended or supplemented.

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

5 A. The supervision of the public school system of Oklahoma
6 shall be vested in the State Board of Education and, subject to
7 limitations otherwise provided by law, the State Board of Education
8 shall:

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

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

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

23 a. State Aid to schools,
24

- 1 b. the supervision of all other functions of general and
2 special education including general control, free
3 textbooks, school lunch, Indian education and all
4 other functions of the Board and an amount sufficient
5 to adequately staff and administer these services, and
6 c. the Board shall determine the details by which the
7 budget and the appropriations are administered.
8 Annually, the Board shall make preparations to
9 consolidate all of the functions of the Department in
10 such a way that the budget can be based on two items,
11 administration and aid to schools. A maximum amount
12 for administration shall be designated as a part of
13 the total appropriation;

14 4. On the first day of December preceding each regular session
15 of the Legislature, prepare and deliver to the Governor and the
16 Legislature a report for the year ending June 30 immediately
17 preceding the regular session of the Legislature. The report shall
18 contain:

- 19 a. detailed statistics and other information concerning
20 enrollment, attendance, expenditures including State
21 Aid, and other pertinent data for all public schools
22 in this state,
23 b. reports from each and every division within the State
24 Department of Education as submitted by the State

1 Superintendent of Public Instruction and any other
2 division, department, institution or other agency
3 under the supervision of the Board,

4 c. recommendations for the improvement of the public
5 school system of the state,

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

8 e. a statement of plans and recommendations for the
9 management and improvement of public schools and such
10 other information relating to the educational
11 interests of the state as may be deemed necessary and
12 desirable;

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

16 6. Have authority in matters pertaining to the licensure and
17 certification of persons for instructional, supervisory and
18 administrative positions and services in the public schools of the
19 state subject to the provisions of Section 6-184 of this title, and
20 shall formulate rules governing the issuance and revocation of
21 certificates for superintendents of schools, principals,
22 supervisors, librarians, clerical employees, school nurses, school
23 bus drivers, visiting teachers, classroom teachers and for other
24 personnel performing instructional, administrative and supervisory

1 services, but not including members of boards of education and other
2 employees who do not work directly with pupils, and may charge and
3 collect reasonable fees for the issuance of such certificates:

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

1 professional development, subject to the provisions of
2 the Oklahoma Teacher Preparation Act;

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

12 Any school district which maintains an elementary school and
13 faces the necessity of relocating its school facilities because of
14 construction of a lake, either by state or federal authority, which
15 will inundate the school facilities, shall be entitled to receive
16 probationary accreditation from the State Board of Education for a
17 period of five (5) years after the effective date of this act and
18 any school district, otherwise qualified, shall be entitled to
19 receive probationary accreditation from the State Board of Education
20 for a period of two (2) consecutive years to attain the minimum
21 average daily attendance. The Head Start and public nurseries or
22 kindergartens operated from Community Action Program funds shall not
23 be subjected to the accrediting rules of the State Board of
24 Education. Neither will the State Board of Education make rules

1 affecting the operation of the public nurseries and kindergartens
2 operated from federal funds secured through Community Action
3 Programs even though they may be operating in the public schools of
4 the state. However, any of the Head Start or public nurseries or
5 kindergartens operated under federal regulations may make
6 application for accrediting from the State Board of Education but
7 will be accredited only if application for the approval of the
8 programs is made. The status of no school district shall be changed
9 which will reduce it to a lower classification until due notice has
10 been given to the proper authorities thereof and an opportunity
11 given to correct the conditions which otherwise would be the cause
12 of such reduction.

13 Private and parochial schools may be accredited and classified
14 in like manner as public schools or, if an accrediting association
15 is approved by the State Board of Education, by procedures
16 established by the State Board of Education to accept accreditation
17 by such accrediting association, if application is made to the State
18 Board of Education for such accrediting;

19 8. Be the legal agent of the State of Oklahoma to accept, in
20 its discretion, the provisions of any Act of Congress appropriating
21 or apportioning funds which are now, or may hereafter be, provided
22 for use in connection with any phase of the system of public
23 education in Oklahoma. It shall prescribe such rules as it finds
24

1 necessary to provide for the proper distribution of such funds in
2 accordance with the state and federal laws;

3 9. Be and is specifically hereby designated as the agency of
4 this state to cooperate and deal with any officer, board or
5 authority of the United States Government under any law of the
6 United States which may require or recommend cooperation with any
7 state board having charge of the administration of public schools
8 unless otherwise provided by law;

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

19 11. ~~Have authority to secure and administer the benefits of the~~
20 ~~National School Lunch Act, Public Law 396 of the 79th Congress of~~
21 ~~the United States, in the State of Oklahoma and is hereby authorized~~
22 ~~to employ or appoint and fix the compensation of such additional~~
23 ~~officers or employees and to incur such expenses as may be necessary~~
24 ~~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;~~

~~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;

~~13.~~ 11. 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;

~~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~~

1 ~~any such workshop sponsored by the State Board of Education, or from~~
2 ~~the sale of any materials, books and bulletins, and such funds shall~~
3 ~~be disbursed for expenses of such workshops and for developing,~~
4 ~~printing and distributing of such materials, books and bulletins~~
5 ~~relating to the school lunch program. The fund shall be~~
6 ~~administered in accordance with Section 155 of Title 62 of the~~
7 ~~Oklahoma Statutes;~~

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

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

18 ~~17.~~ 14. Have authority to provide for the health and safety of
19 school children and school personnel while under the jurisdiction of
20 school authorities;

21 ~~18.~~ 15. Provide for the supervision of the transportation of
22 pupils;

1 ~~19.~~ 16. Have authority, upon request of the local school board,
2 to act in behalf of the public schools of the state in the purchase
3 of transportation equipment;

4 ~~20.~~ 17. Have authority and is hereby required to perform all
5 duties necessary to the administration of the public school system
6 in Oklahoma as specified in the Oklahoma School Code; and, in
7 addition thereto, those duties not specifically mentioned herein if
8 not delegated by law to any other agency or official;

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

1 sites, constructing, repairing, remodeling or equipping buildings,
2 or acquiring school furniture, fixtures, or equipment. It is hereby
3 declared that the term "school districts" as used in Section 32 of
4 Article X of the Oklahoma Constitution shall mean school districts
5 and eligible charter schools as defined in subsection B of this
6 section. The State Board of Education shall disburse redbud school
7 grants annually from the State Public Common School Building
8 Equalization Fund to public schools and eligible charter schools
9 pursuant to subsection B of this section. The Board shall
10 promulgate rules for the implementation of disbursing redbud school
11 grants pursuant to this section. The State Board of Education shall
12 prescribe rules for making grants of aid from, and for otherwise
13 administering, the fund pursuant to the provisions of this
14 paragraph, and may employ and fix the duties and compensation of
15 technicians, aides, clerks, stenographers, attorneys and other
16 personnel deemed necessary to carry out the provisions of this
17 paragraph. The cost of administering the fund shall be paid from
18 monies appropriated to the State Board of Education for the
19 operation of the State Department of Education. From monies
20 apportioned to the fund, the State Department of Education may
21 reserve not more than one-half of one percent (1/2 of 1%) for
22 purposes of administering the fund;

23 ~~22.~~ 19. Recognize that the Director of the Oklahoma Department
24 of Corrections shall be the administrative authority for the schools

1 which are maintained in the state reformatories and shall appoint
2 the principals and teachers in such schools. Provided, that rules
3 of the State Board of Education for the classification, inspection
4 and accreditation of public schools shall be applicable to such
5 schools; and such schools shall comply with standards set by the
6 State Board of Education; and

7 ~~23.~~ 20. Have authority to administer a revolving fund which is
8 hereby created in the State Treasury, to be designated the
9 Statistical Services Revolving Fund. The fund shall consist of all
10 monies received from the various school districts of the state, the
11 United States Government, and other sources for the purpose of
12 furnishing or financing statistical services and for any other
13 purpose as designated by the Legislature. The State Board of
14 Education is hereby authorized to enter into agreements with school
15 districts, municipalities, the United States Government, foundations
16 and other agencies or individuals for services, programs or research
17 projects. The Statistical Services Revolving Fund shall be
18 administered in accordance with Section 155 of Title 62 of the
19 Oklahoma Statutes.

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

- 22 a. divide the county four-mill levy revenue by four to
23 determine the nonchargeable county four-mill revenue
24 for each school district,

- 1 b. determine the amount of new revenue generated by the
2 five-mill building fund levy as authorized by Section
3 10 of Article X of the Oklahoma Constitution for each
4 school district as reported in the Oklahoma Cost
5 Accounting System for the preceding fiscal year,
- 6 c. add the amounts calculated in subparagraphs a and b of
7 this paragraph to determine the nonchargeable millage
8 for each school district,
- 9 d. add the nonchargeable millage in each district
10 statewide as calculated in subparagraph c of this
11 paragraph and divide the total by the average daily
12 membership in public schools statewide based on the
13 preceding school year's average daily membership,
14 according to the provisions of Section 18-107 of this
15 title. This amount is the statewide nonchargeable
16 millage per student, known as the baseline local
17 funding per student,
- 18 e. all eligible charter schools shall be included in
19 these calculations as unique school districts,
20 separate from the school district that may sponsor the
21 eligible charter school, and the total number of
22 districts shall be used to determine the statewide
23 average baseline local funding per student,
- 24

- f. for each school district or eligible charter school which is below the baseline local funding per student, the Department shall subtract the baseline local funding per student from the average nonchargeable millage per student of the school district or eligible charter school to determine the nonchargeable millage per student shortfall for each district, and
- g. the nonchargeable millage per student shortfall for a school district or eligible charter school shall be multiplied by the average daily membership of the preceding school year of the eligible school district or eligible charter school. This amount shall be the redbud school grant amount for the school district or eligible charter school.

2. For fiscal year 2022, monies for the redbud school grants shall be expended from the funds apportioned pursuant to Section ~~2~~ 426 of ~~this act~~ Title 63 of the Oklahoma Statutes. For fiscal year 2023 and each subsequent fiscal year, monies for the redbud school grants shall be appropriated pursuant to Section ~~2~~ 426 of ~~this act~~ Title 63 of the Oklahoma Statutes, not to exceed three-fourths (3/4) of the tax collected in the preceding fiscal year pursuant to Section 426 of Title 63 of the Oklahoma Statutes as determined by the Oklahoma Tax Commission. For fiscal year 2023 and each subsequent fiscal year, if such appropriated funds are insufficient

1 to fund the redbud school grants, then an additional apportionment
2 of funds shall be made from sales tax collections as provided by
3 subsection D of Section ~~3~~ 1353 of ~~this act~~ Title 68 of the Oklahoma
4 Statutes. If both funds are insufficient, the Department shall
5 promulgate rules to permit a decrease to the baseline local funding
6 per student to the highest amount allowed with the funding
7 available.

8 3. As used in this section, "eligible charter school" shall
9 mean a charter school which is sponsored pursuant to the provisions
10 of the Oklahoma Charter School Act. Provided, however, "eligible
11 charter school" shall not include a charter school sponsored by the
12 Statewide Virtual Charter School Board but shall only include those
13 which provide in-person or blended instruction, as provided by
14 Section 1-111 of this title, to not less than two-thirds (2/3) of
15 students as the primary means of instructional service delivery.

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

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

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

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

8 SECTION 5. This act shall become effective July 1, 2025.

9
10 COMMITTEE REPORT BY: COMMITTEE ON COMMON EDUCATION, dated 03/01/2023
11 - DO PASS, As Amended and Coauthored.