

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

HOUSE BILL 1840

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

11 2. 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; and

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

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

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

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

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

23 A. The supervision of the public school system of Oklahoma
24 shall be vested in the State Board of Education and, subject to

1 limitations otherwise provided by law, the State Board of Education
2 shall:

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

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

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

17 a. State Aid to schools,

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

23 c. the Board shall determine the details by which the
24 budget and the appropriations are administered.

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

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

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

1 e. a statement of plans and recommendations for the
2 management and improvement of public schools and such
3 other information relating to the educational
4 interests of the state as may be deemed necessary and
5 desirable;

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

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

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

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

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

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

18 7. Promulgate rules governing the classification, inspection,
19 supervision and accrediting of all public nursery, kindergarten,
20 elementary and secondary schools and on-site educational services
21 provided by public school districts or state-accredited private
22 schools in partial hospitalization programs, day treatment programs,
23 and day hospital programs as defined in this act for persons between
24 the ages of three (3) and twenty-one (21) years of age in the state.

1 However, no school shall be denied accreditation solely on the basis
2 of average daily attendance.

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

1 been given to the proper authorities thereof and an opportunity
2 given to correct the conditions which otherwise would be the cause
3 of such reduction.

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

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

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

23 10. ~~Be and is hereby designated as the "State Educational~~
24 ~~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;~~

~~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;~~

~~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

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

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

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

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

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

8 ~~17.~~ 14. Have authority to provide for the health and safety of
9 school children and school personnel while under the jurisdiction of
10 school authorities;

11 ~~18.~~ 15. Provide for the supervision of the transportation of
12 pupils;

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

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

21 ~~21.~~ 18. Administer the State Public Common School Building
22 Equalization Fund established by Section 32 of Article X of the
23 Oklahoma Constitution. Any monies as may be appropriated or
24 designated by the Legislature, other than ad valorem taxes, any

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

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

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

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

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

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

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

1 preceding school year's average daily membership,
2 according to the provisions of Section 18-107 of this
3 title. This amount is the statewide nonchargeable
4 millage per student, known as the baseline local
5 funding per student,

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

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

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

1 redbud school grant amount for the school district or
2 eligible charter school.

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

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

1 which provide in-person or blended instruction, as provided by
2 Section 1-111 of this title, to not less than two-thirds (2/3) of
3 students as the primary means of instructional service delivery.

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

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

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

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

19 SECTION 5. This act shall become effective November 1, 2023.
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