



S.B. 229

RE: S.B. 229

SUBJECT: Redbud School Funding Act

Senate Bill 229 becomes effective May 28, 2021. This bill creates the Redbud School Funding Act, directing medical marijuana excise tax revenue, and sales tax revenue as needed, to be deposited in the State Public Common School Building Equalization Fund for distribution to eligible charter schools and school districts for acquiring and improving school buildings. The bill also clarifies which revenues charter schools are eligible to receive.

- Section 2(B): Creates a one-time apportionment for fiscal year (FY) 2022 from the 7% *excise tax* on medical marijuana.
- Section 2(C): Includes the redbud school grants as part of the required 75% of excise tax collections that are to be apportioned and spent exclusively in support of public education.

NOTE: Excise tax proceeds from medical marijuana sales are first budgeted for running the Oklahoma Medical Marijuana Authority (OMMA). Any collections exceeding OMMA's operating budget are apportioned to the General Revenue (GR) Fund with 75% required to be expended for common education.

- Section 2(D)(1): Requires the first \$65 million in medical marijuana excise tax collections in FY 2022 to be apportioned as follows:
 - 59.23% (\$38.5 million) to the State Public Common School Building Equalization Fund,
 - 34.62% to the OMMA, and
 - 6.15% to the Department of Health for drug and alcohol rehabilitation programs.
- Section 2(D)(2): Directs any surplus collections beyond the first \$65 million to be apportioned to the GR Fund.
- Section 3(D): Directs *sales tax* revenues, prior to any apportionment to the GR Fund, to be apportioned to the State Public Common School Building Equalization Fund in an amount not exceed the total amount of *medical marijuana sales tax* generated in the preceding fiscal year for administering the redbud school grant program **beginning in FY 2023 and each subsequent fiscal year.**

- Section 4(F): Clarifies that school districts may provide blended instruction opportunities to students and defines “blended instruction” to mean a combination of brick-and-mortar learning and virtual learning environments that includes elements of a student’s control over place, pace and path of learning.
 - Allows a student in blended instruction to work on virtual courses at home or at school in a blended flex lab with at least one unit or set of competencies required to be taken at a physical school building in a traditional classroom setting – the academic equivalent of one hour per day for each instructional day in the school year.
- Section 5(A)(21): Repeals the existing State Public Common School Building Equalization Fund grant program and related guidelines including repealing language that limited charters to only using Fund dollars to acquire buildings where enrolled students attend and the limitation that an eligible district have total assessed property valuation per average daily membership that is less than the state average, has voted the allowable five mill building fund levy, and has at least 50% bonded indebtedness in the last three years.
 - Requires the Board to **annually** disburse monies from the Fund as redbud schools grants to public schools and “eligible charter schools” and to promulgate rules to implement the redbud school grant program.
 - Authorizes the State Department of Education (OSDE) to reserve up to one half of one percent (0.5%) of monies apportioned to the Fund for administration.
- Section 5(B)(1): Creates the formula by which OSDE is to calculate grants awarded through the program as follows:
 - divide the county four-mill levy revenue by four to determine the *nonchargeable county four-mill revenue* (i.e., the value of one mill) for each school district,
 - determine the amount of *new revenue* generated by the five-mill building fund levy for each local school district as reported in the Oklahoma Cost Accounting System (OCAS) for the *preceding fiscal year*,
 - determine each school district’s *nonchargeable millage* by adding the nonchargeable county four-mill and five-mill building fund new revenue,
 - total the *nonchargeable millage* for all districts and divide the total by the state average daily membership (ADM) for the preceding school year. The resulting amount is the statewide nonchargeable millage per student, known as the *baseline local funding per student*,
 - requires all eligible charter schools to be included in these calculations as unique school districts, separate from sponsoring school districts,
 - determine each school district that is below the statewide average *baseline local funding per student* by subtracting the statewide *baseline local funding per*

student from the *average nonchargeable millage* per student for each district to determine the *shortfall* by district, and

- multiply the *shortfall* for each school district by the preceding school year's ADM which results in the *redbud school grant amount* to be awarded to the school district, and bringing all districts and eligible charter schools to the statewide average baseline.
- Section 5(B)(2): Requires redbud school grants in FY 2022 to be apportioned from medical marijuana excise tax. Requires redbud school grants in FY 2023, and each subsequent fiscal year, to be appropriated from the medical marijuana excise tax reserved for common education (i.e., 75% after allocation for OMMA budget). Beginning in FY 2023, if the appropriation is insufficient to fund the grants, an additional apportionment of funds is to be made from medical marijuana sales tax collections.
 - Requires OSDE to promulgate rules to permit a decrease to the *baseline local funding per student*, if the excise and sales tax amounts are insufficient.
- Section 5(B)(3): Defines “eligible charter school,” for the purpose of receiving redbud school grants, to mean a charter school that is sponsored according to the Oklahoma Charter School Act, excluding those sponsored by the Statewide Virtual Charter School Board, and provides in-person or blended instruction (*see* definition of blended instruction above) to no fewer than two-thirds of students as the primary means of instructional service delivery.
- Section 5(B)(4): Requires OSDE to develop a program to acknowledge redbud school grant recipients and include their elected members of the Oklahoma House of Representatives and Oklahoma State Senate.
- Section 5(B)(5): Requires OSDE to dedicate a webpage to listing the annual redbud school grant recipients, amounts awarded to each recipient, and other pertinent information about the Redbud School Funding Act.
- Section 5(B)(6): Requires OSDE to provide the House and Senate Appropriations Committee Chairs an estimate of the upcoming year's redbud school grant allocation annually by February 1.
- Section 6(H)(2): Requires that the approximately \$38.5 million in redbud school grant funding appropriated to the State Board of Education in FY 2022 be included in addition to the appropriation for financial support of public schools (*see* H.B. 2900) for the purpose of calculating whether the threshold is met to trigger class size requirements for kindergarten and first grade as originally established by H.B. 1017 (1990).
- Section 7(A): Repeals the requirement that charter schools be considered sites within the sponsoring district for the purpose of funding. Requires a charter school's student membership *and attendance* be considered separate from that of the sponsoring district for the purpose of calculating funding and enrollment, including calculating Weighted Average Daily Membership (WADM) and State Aid.

- Requires charter schools to receive their state aid allocation, federal funds, and other appropriated revenue directly, rather than from the sponsoring school district.
- Requires the 3% of State Aid administrative fee to be charged by the sponsor rather than retained from the school district allocation.
- Section 7(C): Prohibits charter schools from receiving state-dedicated, local or county revenue unless explicitly authorized by state law; however, they remain eligible for any *other* aid, grants or revenues allowed to other schools. Requires charter schools to be considered local education agencies (LEAs) for funding purposes, regardless of sponsor.
- Section 7(D): Clarifies that a charter school may reserve any unexpended funds to be used for future purposes.
- Section 8: Prohibits the average daily attendance (ADA) for students enrolled in charter schools from being used in calculating distributions to school districts, as allowable under state law, from county 4-mill ad valorem revenue, gross production tax (GPT), motor vehicle tax and state school land earnings.

Should you have any questions related to this bill, please contact Ms. Renee McWaters, Executive Director of State Aid, at (405) 522-0124 or Ms. Carolyn Thompson, Chief of Government Affairs, at (405) 522-3520.

Amendment to: 63 O.S. § 426, 68 O.S. § 1353, 70 O.S. § 1-111, 70 O.S. § 3-104, 70 O.S. § 3-104.4, 70 O.S. § 3-142, 70 O.S. § 10-103.1

Helpful statutory reference: 47 O.S. § 1104, 68 O.S. § 1004, 70 O.S. § 1-109, 3-130, 10-104, 11-103.6, 18-107, 18-200.1, 18-201.1, 615 Article 10 § 9(b), 10, 32 of the Oklahoma Constitution, State Question No. 788