



ROSENSTEIN, FIST & RINGOLD

## RED BANNER UPDATE

**Date:** June 4, 2021

**Re:** SB 229

**Signed:** May 28, 2021

**Effective:** May 28, 2021

**Topic:** *Redbud School Funding Act*

**Summary:** As applicable to school districts, this Act amends several statutes and apportions to the Statewide Common Education Building Equalization Fund certain monies that can be annually distributed to low ad valorem school districts and “eligible charter schools” by the Oklahoma State Department of Education (OSDE) on a per-pupil basis pursuant to a formula prescribed within the Act. These distributed funds are called “redbud grants.”

The Act defines the following terms:

1. School Districts: as used in Section 32 of Article X of the *Oklahoma Constitution* ... the term means “school districts and eligible charter schools.”
2. Eligible Charter School: “a charter school which is sponsored pursuant to the provisions of the *Oklahoma Charter School Act*. . . however, ‘eligible charter school’ shall not include a charter school sponsored by the Statewide Virtual Charter School Board, but shall only include those which provide in-person or ‘blended instruction’ to not less than two-thirds (2/3) of students as the primary means of instructional delivery.”
3. Blended Instruction: “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.”

The Act provides that redbud school grants shall be determined by the OSDE as follows:

- A. Divide the county four-mill levy revenue by four (4) to determine the **nonchargeable county four-mill revenue for each school district**;

- B. determine the **amount of new revenue generated by the five-mill building fund levy** as authorized by Section 10 of Article X of the *Oklahoma Constitution* for each school district as reported in the Oklahoma Cost Accounting System for the preceding fiscal year;
- C. add the amounts calculated in [A and B] to determine the **nonchargeable millage for each school district**;
- D. add the nonchargeable millage in each district statewide as calculated in [C] and divide the total by the average daily membership in public schools statewide based on the preceding school year's average daily membership, according to the provisions of OKLA. STAT. tit. 70, § 18-107. This amount is the statewide nonchargeable millage per student, known as the **baseline local funding per student**;
- E. all eligible charter schools shall be included in these calculations as unique school districts, separate from the school district that may sponsor the eligible charter school, and the total number of districts shall be used to determine the **statewide average baseline local funding per student**;
- F. for each school district or eligible charter school which is below the baseline local funding per student, the [OSDE] 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 non-chargeable 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.**

The Act requires the OSDE to develop a program to acknowledge redbud school grant recipients; create a dedicated page on its website listing annual redbud grant recipients, amount awarded to each, and other pertinent information about the *Redbud School Funding Act*; and promulgate rules for the implementation of disbursing redbud school grants pursuant to the Act.

The Act further provides that, beginning with fiscal year 2021-2022, if the amount of money appropriated to the Oklahoma State Board of Education (OSBE) for the financial support of public schools — which now includes funds apportioned for redbud school grant distributions — is at least One Hundred Million Dollars (\$100,000,000.00) greater than the amount of money appropriated to the OSBE for the financial support of public schools for fiscal year 2018-2019, a financial penalty shall be assessed against any school districts that do not comply with the class size limitations for kindergarten, as provided in



OKLA. STAT. tit. 70, § 18-113.2 and the class size limitations for first grade, as provided in OKLA. STAT. tit. 70, § 18-113.1(A)

The Act also amends OKLA. STAT. tit. 70, § 3-142 to state that a charter school's student membership and attendance shall be considered separate from the student membership and attendance of the sponsor for the purpose of calculating enrollment and funding, including weighted average daily membership pursuant to OKLA. STAT. tit. 70, § 18-201.1 and State Aid pursuant to OKLA. STAT. tit. 70, § 18-200.1. A charter school shall receive from the State Aid allocation those federal funds to which it is eligible and qualifies for and any other state-appropriated revenue generated by its students for the applicable year, and not more than three percent (3%) of the State Aid allocation may be charged by the charter school's sponsor as a fee for administrative services rendered. Furthermore, except as explicitly authorized by state law, a charter school shall not be eligible to receive state-dedicated, local, or county revenue; however, a charter school may be eligible to receive any other aid, grants, or revenues allowed to other schools, and a charter school shall be considered a local education agency for purposes of funding. Any unexpected funds received by a charter school may be reserved and used for future purposes.

Finally, the Act amends OKLA. STAT. tit. 70, § 10-103.1 to provide that the legal average daily attendance for purposes of the distributions contained in OKLA. CONST. art. X, § 9(b) (the four-mill county levy); OKLA. STAT. tit. 68, § 1004 (gross production tax); OKLA. STAT. tit. 74, § 1104 (the *Vehicle License and Registration Act* tax); and OKLA. STAT. tit. 70, § 10-104 & 615 (state school land earnings) shall not include the average daily attendance for students enrolled in a charter school.

Please visit the firm's website to view the signed Act.

RFR attorneys are reviewing this legislation and will be advising clients as to any recommended changes to existing district policies.