

ENROLLED SENATE  
BILL NO. 156

BY: HORNER, RUBOTTOM, WILLIAMS  
(Penny), MILES-LaGRANGE,  
LONG (Ed), HENDRICK,  
ROBINSON and COLE of the  
SENATE

and

ROSS, WILLIAMS, MONSON, COX  
and ROACH of the HOUSE

AN ACT RELATING TO SCHOOLS; AMENDING 70 O.S.  
1991, SECTIONS 3954 AND 3955, WHICH RELATE TO  
THE OKLAHOMA STATE REGENTS' ENDOWMENT TRUST FUND  
AND THE OKLAHOMA STATE REGENTS' ACADEMIC  
SCHOLARS TRUST FUND; PROVIDING SHORT TITLE;  
ENACTING THE OKLAHOMA HIGHER LEARNING ACCESS  
ACT; CREATING OKLAHOMA HIGHER LEARNING ACCESS  
PROGRAM; STATING PURPOSES; REQUIRING  
ESTABLISHMENT OF POLICIES AND ADOPTION OF RULES  
BY THE OKLAHOMA STATE REGENTS FOR HIGHER  
EDUCATION, THE STATE DEPARTMENT OF EDUCATION,  
AND THE STATE DEPARTMENT OF VOCATIONAL AND  
TECHNICAL EDUCATION; ESTABLISHING CERTAIN  
REQUIREMENTS FOR ELIGIBILITY AND RETENTION OF  
ELIGIBILITY; REQUIRING CERTAIN NOTIFICATION TO  
STUDENTS AND PARENTS; PROVIDING FOR CERTAIN  
AGREEMENTS; REQUIRING CERTAIN RECORDS  
MANAGEMENT, LIAISON, AND PROVISION OF STAFF  
DEVELOPMENT BY THE STATE DEPARTMENT OF  
EDUCATION; ESTABLISHING OKLAHOMA HIGHER LEARNING  
ACCESS TRUST FUND; AUTHORIZING CERTAIN  
ALLOCATIONS FROM FUND; DESIGNATING THE OKLAHOMA  
STATE REGENTS FOR HIGHER EDUCATION AS TRUSTEES;  
PROVIDING PURPOSE AND ADMINISTRATION OF TRUST  
FUND; PROVIDING DUTIES OF TRUSTEES; PROVIDING  
FOR MANAGEMENT OF MONIES OF TRUST FUND;  
REQUIRING CERTAIN INVESTMENT PLANS, FINANCIAL  
REPORTS AND ANNUAL REPORTS; SPECIFYING DUTIES  
AND ROLE OF FIDUCIARY; PROVIDING FOR  
CODIFICATION; PROVIDING AN EFFECTIVE DATE; AND  
DECLARING AN EMERGENCY.

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 2601 of Title 70, unless there  
is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Higher  
Learning Access Act".

SECTION 2. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 2602 of Title 70, unless there  
is created a duplication in numbering, reads as follows:

There is hereby created the Oklahoma Higher Learning Access  
Program. The purpose of the program is to ensure that students who

meet the criteria set forth in this act and who are pursuing studies in this state leading to an associate or baccalaureate degree or who are pursuing studies in a postsecondary vocational-technical program offered pursuant to a duly approved cooperative agreement between an area vocational-technical school and an institution of The Oklahoma State System of Higher Education, and who are in good academic standing in the institution of higher education or vocational-technical school in which enrolled, are relieved of the burden of paying undergraduate general enrollment fees at institutions of The Oklahoma State System of Higher Education, are relieved of the burden of paying tuition for enrollment in postsecondary programs of the area vocational-technical districts, or relieved of some portion of the burden of paying such fees or tuition, pursuant to the provisions of this act, as may be required of enrollees at private institutions of higher education which are accredited pursuant to Section 4103 of Title 70 of the Oklahoma Statutes. The further purpose of this program is to establish and maintain a variety of support services whereby a broader range of the general student population of this state will be prepared for success in postsecondary endeavors.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2603 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. To be eligible to participate in the Oklahoma Higher Learning Access Program and to qualify for payment of general enrollment fees or tuition pursuant to Section 4 of this act for the first semester or other academic unit of postsecondary enrollment, a student shall:

1. Be a resident of this state;
2. Have a record of satisfactory compliance with agreements executed pursuant to Section 5 of this act;
3. Have graduated within the previous three (3) years from a high school accredited by the State Board of Education with a minimum 2.5 cumulative grade point average on a 4.0 scale, irrespective of honor points, for all work attempted in grades nine through twelve;
4. Have satisfied a fifteen-unit high school core curriculum as adopted by the Oklahoma State Regents for Higher Education, and have attained a 2.5 grade point average in the core curriculum courses; provided that students who attended a high school which did not offer all the core curriculum courses shall be allowed to satisfy this requirement by participating in a program approved by the State Regents for remediation of high school curricular deficiencies;
5. Have satisfied admission standards as determined by the Oklahoma State Regents for Higher Education for first-time-entering students for the appropriate type of institution, or, if attending a private institution, have satisfied admission standards as determined by the private institution; provided, no student participating in the Oklahoma Higher Learning Access Program shall be admitted into an institution of higher education by special admission standards;
6. Have secured admission to, and enrolled in, an institution which is a member of The Oklahoma State System of Higher Education, a postsecondary vocational-technical program offered pursuant to a duly approved cooperative agreement between an area vocational-technical school and an institution of The Oklahoma State System of Higher Education, or a private institution of higher learning located within this state and accredited pursuant to Section 4103 of Title 70 of the Oklahoma Statutes; and

7. Have established financial need during the ninth-grade year or tenth-grade year if enrolled during the tenth grade according to the standards and provisions promulgated by the State Board of Education; a student who satisfies the financial need criteria during the ninth- or tenth-grade when he or she begins participating in the Oklahoma Higher Learning Access Program shall not later be denied participation in the Oklahoma Higher Learning Access Program on grounds that the student does not meet the financial need criteria.

B. To retain eligibility while pursuing the program of higher learning in which enrolled, the student shall:

1. Maintain good academic standing and satisfactory academic progress according to standards of the Oklahoma State Regents for Higher Education; and

2. Comply with the standards related to maintenance of eligibility as promulgated by the Oklahoma State Regents for Higher Education.

C. The Oklahoma State Regents for Higher Education and the State Board of Vocational and Technical Education shall promulgate regulations relating to maintenance of eligibility under this act by a student.

D. It is the intent of the Legislature that students in the ninth grade for the 1992-93 school year who are determined to be eligible Oklahoma Higher Learning Access students pursuant to this act shall be the first students eligible for benefits from the Oklahoma Higher Learning Access Trust Fund.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2604 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. Subject to the availability of funds, the general enrollment fees for which an eligible Oklahoma Higher Learning Access Program student is obligated at an institution of The Oklahoma State System of Higher Education shall be satisfied by allocation from the Oklahoma Higher Learning Access Trust Fund.

B. Subject to the availability of funds, for each eligible Oklahoma Higher Learning Access Program student enrolled at a private institution of higher learning located within this state and accredited pursuant to Section 4103 of Title 70 of the Oklahoma Statutes, the Oklahoma State Regents for Higher Education shall award from the Oklahoma Higher Learning Access Fund to the institution, on behalf of the student, an amount equivalent to the amount of general enrollment fee for which the student would be eligible if the student were enrolled in a comparable program at a comparable institution of The Oklahoma State System of Higher Education. Comparability shall be determined by the State Regents.

C. Subject to the availability of funds, the tuition for any eligible Oklahoma Higher Learning Access Program student enrolled in a public postsecondary vocational-technical program for the purpose set forth in Section 2 of this act shall be satisfied by allocation from the Oklahoma Higher Learning Access Trust Fund.

D. Satisfaction of general enrollment fees or tuition allowed by this section shall not be allowed for courses or other postsecondary units repeated, taken in excess of the requirements for completion of a baccalaureate program or postsecondary vocational-technical certificate program, or taken more than five (5) years after the student's first semester of postsecondary enrollment. General enrollment fees and tuition for eligible Oklahoma Higher Learning Access Program students enrolled in cooperative programs pursuant to agreements between area vocational-technical schools and institutions of The Oklahoma State System of

Higher Education shall be satisfied for both vocational-technical and college work in which enrolled pursuant to such cooperative program.

E. Benefits awarded under the Oklahoma Higher Learning Access Program shall be awarded to all eligible applicants without any limitation on the number of awards in any year other than the amount of funds available for the program and the number of eligible applicants. Subject to the provisions of subsection F of this section, if funds are not sufficient to provide awards for all eligible applicants, the Oklahoma State Regents for Higher Education shall make awards on the basis of need.

F. The Oklahoma State Regents for Higher Education may, at the time an award is made on behalf of an Oklahoma Higher Learning Access student, set aside in the Oklahoma Higher Learning Access Trust Fund funds for the full commitment made to such Higher Learning Access Program student. For all academic years, students who have previously received awards under the provisions of this act and who have continued at all times to fulfill the requirements for eligibility to receive awards provided in this act shall be given an absolute priority for continued financial support by the Oklahoma Higher Learning Access Program superior to any students who are applying for such benefits for the first time.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2605 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. Each school year, every fifth- through ninth-grade student in the public schools of this state shall be apprised, together with the student's parent, custodial parent, or guardian, of the student's opportunity for access to higher learning under the Oklahoma Higher Learning Access Program. The State Board of Education shall develop, promote, and coordinate a public awareness program to be utilized in making students and parents aware of the Oklahoma Higher Learning Access Program.

B. The State Board of Education shall ensure that every public school district designates at least one Oklahoma Higher Learning Access Program contact person, who shall be a counselor or teacher, at each public school site in this state in which ninth- or tenth-grade classes are taught.

C. Ninth-grade students who qualify on the basis of financial need according to the standards and provisions promulgated by the State Board of Education shall be given the opportunity throughout the ninth-grade year to enter into participation in the program by agreeing to, throughout the remainder of their school years:

1. Attend school regularly and do homework regularly;
2. Refrain from substance abuse;
3. Refrain from commission of crimes or delinquent acts;
4. Have school work and school records reviewed by mentors designated pursuant to the program;
5. Provide information requested by the State Board of Education; and
6. Participate in program activities.

The contact person at the school shall maintain the agreements, which shall be executed on forms provided by the State Board of Education and managed according to regulations promulgated by the State Board of Education, and the contact person shall monitor the student's compliance with the terms of the agreement.

D. A student shall not be found to be in financial need for purposes of this act if the student's family income from taxable and nontaxable sources exceeds Twenty-four Thousand Dollars (\$24,000.00) per year. The student's financial qualification shall be certified

by the contact person at the school on a form provided by the State Board of Education; the certification form shall be retained in the student's permanent record and forwarded to the Oklahoma State Regents for Higher Education upon the student's enrollment in a postsecondary program.

E. Agreements shall be witnessed by the student's parent, custodial parent, or guardian, who shall further agree to:

1. Assist the student in achieving compliance with the agreements;

2. Confer, when requested to do so, with the school contact person, other school personnel, and program mentors;

3. Provide information requested by the State Board of Education; and

4. Assist the student in completing forms and reports required for program participation, making applications to institutions and schools of higher learning, and filing applications for student grants and scholarships.

F. Tenth-grade students who failed to enter into participation in the program during their ninth-grade year shall be allowed to enter into participation in the program by entering into agreements as set forth in subsections C and D of this section. Students who begin participating in the program during their tenth-grade year shall be eligible for benefits from the Oklahoma Higher Learning Access Trust Fund as provided in this act only under the following conditions:

1. An Oklahoma Higher Learning Access Program student who began participation during the ninth-grade year becomes ineligible for benefits from the trust fund; and

2. The trust fund balance, excluding any amounts set aside for full commitments to Higher Learning Access Program students pursuant to Section 4 of this act, exceeds the amount necessary to satisfy awards due on behalf of Higher Learning Access Program students who began participation during the ninth-grade year or who have priority as provided in Section 4 of this act.

G. Eligibility of students who begin participating in the program during their tenth-grade year shall be determined by the date of their enrollment, with priority given to students whose enrollment dates are earliest. Students who begin participating in the program during their tenth-grade year and who receive trust fund benefits pursuant to subsection E of this section shall be given priority for continued financial support as provided in Section 4 of this act.

H. The State Board of Education shall promulgate regulations for the determination of student compliance with agreements made pursuant to this section.

I. The State Board of Education shall designate personnel of the State Department of Education to coordinate tracking of program records for the years when students participating in the program are still in the public schools, provide staff development for contact persons in the public schools, and provide liaison with the Oklahoma State Regents for Higher Education and local organizations and individuals participating in the program.

J. The local school district where an Oklahoma Higher Learning Access Program student is attending when the student begins participation in the program and any subsequent school district where the student attends shall forward information regarding the student's participation in the program to a school to which the student transfers upon the school's request for the student's records.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3953.1 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created a trust fund to be known as the "Oklahoma Higher Learning Access Trust Fund". The Oklahoma State Regents for Higher Education shall be the trustees of said Trust Fund.

B. The State Regents shall utilize said Trust Fund to implement the provisions of Sections 1 through 4 of this act.

C. The Trust Fund principal shall consist of monies the Legislature appropriates or transfers to the Oklahoma State Regents for Higher Education for the Trust Fund and any monies or assets contributed to the Trust Fund from any other source, public or private.

D. Notwithstanding other provisions of law, income and investment return on Trust Fund principal shall accrue to the Trust Fund for use as provided by authorization of the trustees for the purposes provided in Sections 1 through 4 of this act. The State Regents may also utilize the Trust Fund principal for the purposes provided in Sections 1 through 4 of this act. Except as otherwise provided by law, no such income or investment return or principal shall be used for administrative expenses; expenses incurred by the State Regents in the administration of the Trust Fund and of the Oklahoma Higher Learning Access Program established by this act shall be paid from monies appropriated to the State Regents coordinating board for their general operating budget.

E. The Regents shall adopt rules for accomplishing transfer of funds from the Oklahoma Higher Learning Access Trust Fund to the appropriate institutional Educational and General Operations Revolving Funds, as provided in Section 3901 of this title, to private institutions, and to the appropriate vocational-technical area school district to cover general enrollment fees or tuition for eligible students pursuant to this Act. Allocations from the Trust Fund may be made only for the purpose of covering the general enrollment fees or tuition of eligible students. No portion of the Trust Fund may be used or allocated for administrative or operating expenses of any higher education or vocational-technical institution.

SECTION 7. AMENDATORY 70 O.S. 1991, Section 3954, is amended to read as follows:

Section 3954. A. The Oklahoma State Regents for Higher Education shall discharge their duties as trustees of the Oklahoma State Regents' Endowment Trust Fund ~~and~~, as trustees of the Oklahoma State Regents' Academic Scholars Trust Fund, and as trustees of the Oklahoma Higher Learning Access Trust Fund hereafter "Trust Funds":

1. With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

2. By diversifying the investments of the Trust Funds so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

3. In accordance with the laws, documents and instruments governing the Trust Funds.

B. The monies of the Trust Funds shall be invested only in assets eligible for the investment of funds of legal reserve life insurance companies in this state as provided for in Sections 1602 through 1611, 1613 through 1620, and 1622 through 1624 of Title 36 of the Oklahoma Statutes. The term "admitted assets" shall mean the amount of the monies of the Trust Funds, and the provisions relating

to limitation of investments as a percentage of surplus and loans to policyholders shall be inapplicable with respect to investment of the monies of the Trust Funds. The monies of the Trust Funds may be invested in certificates of indebtedness or such other enforceable evidences of obligation as may be utilized in rights-of-way acquisitions by the Oklahoma Department of Transportation. The monies of the Trust Funds may also be invested in bonds secured by first mortgages, pass-through securities, and insured participation certificates representing interests in first mortgages or insured mortgage pass-through certificates on one- to four-family residences located within this state.

C. The State Regents may procure insurance indemnifying the members of the State Regents from personal loss or accountability from liability resulting from a member's action or inaction as a trustee.

D. The State Regents may establish an investment committee for one or ~~both~~ all Trust Funds. Such investment committee shall be composed of members of the State Regents appointed by the chairman of the State Regents. The committee shall make recommendations to the entire membership of the State Regents on all matters related to the choice of custodians and managers of the assets of the Trust Funds, on the establishment of investment and fund management guidelines, and in planning future investment policy. The committee shall have no authority to act on behalf of the State Regents in any circumstances whatsoever. No recommendation of the committee shall have effect as an action of the State Regents nor take effect without the approval of the State Regents.

E. The State Regents may retain qualified investment managers to provide for the investment of the monies of the Trust Funds. The investment managers shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the State Regents. Subject to the overall investment guidelines set by the State Regents, the investment managers shall have full discretion in the management of those monies of the Trust Funds allocated to the investment managers. The State Regents shall manage those monies not specifically allocated to the investment managers. The monies of the Trust Funds allocated to the investment managers shall be actively managed by the investment managers, which may include selling investments and realizing losses if such action is considered advantageous to longer term return maximization. Because of the total return objective, no distinction shall be made for management and performance evaluation purposes between realized and unrealized capital gains and losses.

F. Funds and revenues for investment by the investment managers or the State Regents shall be placed with a custodian selected by the State Regents. The custodian shall be a bank or trust company offering pension fund master trustee and master custodial services. The custodian shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the State Regents. In compliance with the investment policy guidelines of the State Regents, the custodian bank or trust company shall be contractually responsible for ensuring that all monies of the Trust Funds are invested in income-producing investment vehicles at all times. If a custodian bank or trust company has not received direction from the investment managers of the Trust Funds as to the investment of the monies of the Trust Funds in specific investment vehicles, the custodian bank or trust company shall be contractually responsible to the State Regents for investing the monies in appropriately collateralized short-term interest-bearing investment vehicles.

G. By November 1, 1989, and prior to August 1 of each year thereafter, the State Regents shall develop written investment plans for the Trust Funds.

H. The State Regents shall compile quarterly financial reports of all the funds and accounts of the Oklahoma State Regents' Endowment Trust Fund ~~and~~, of the Oklahoma State Regents' Academic Scholars Trust Fund, and the Oklahoma Higher Learning Access Trust Fund on a fiscal year basis. The reports shall include several relevant measures of investment value, including acquisition cost and current fair market value with appropriate summaries of total holdings and returns. The reports shall contain combined and individual rates of returns of the investment managers by category of investment, over periods of time. The reports shall be distributed to the Director of the Legislative Service Bureau and the Chairman of the Joint Committee on Fiscal Operations.

I. After July 1 and before October 1 of each year, the State Regents shall publish ~~two~~ three annual reports presented in simple and easily understood language. The reports shall be submitted to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Director of the Legislative Service Bureau, and the Chairman of the Joint Committee on Fiscal Operations. The annual reports shall cover the operation of the Oklahoma State Regents' Endowment Trust Fund ~~and of~~, of the Oklahoma State Regents' Academic Scholars Trust Fund, and the Oklahoma Higher Learning Access Trust Fund during the past fiscal year, including income, disbursements, and the financial condition of the Trust Funds at the end of the fiscal year. The annual reports shall also contain the information issued in the quarterly reports required pursuant to subsection H of this section as well as a summary of the results of the most recent actuarial valuation to include total assets, total liabilities, unfunded liability or over-funded status, contributions and any other information deemed relevant by the State Regents.

SECTION 8. AMENDATORY 70 O.S. 1991, Section 3955, is amended to read as follows:

Section 3955. A. A fiduciary with respect to the Oklahoma State Regents' Endowment Trust Fund ~~or~~, the Oklahoma State Regents' Academic Scholars Trust Fund, or the Oklahoma Higher Learning Access Trust Fund, hereafter the "Trust Fund," shall not cause the Trust Fund to engage in a transaction if the fiduciary knows or should know that such transaction constitutes a direct or indirect:

1. Sale or exchange, or leasing of any property from the Trust Fund to a party in interest;
2. Lending of money or other extension of credit from the Trust Fund to a party in interest;
3. Furnishing of goods, services, or facilities from the Trust Fund to a party in interest; or
4. Transfer to, or use by or for the benefit of, a party in interest of any assets of the Trust Fund.

B. A fiduciary with respect to the Trust Fund shall not:

1. Deal with the assets of the Trust Fund in the fiduciary's own interest or for the fiduciary's own account;
2. In the fiduciary's individual or any other capacity act in any transaction involving the Trust Fund on behalf of a party whose interests are adverse to the interests of the Trust Fund; or
3. Receive any consideration for the fiduciary's own personal account from any party dealing with the Trust Fund in connection with a transaction involving the assets of the Trust Fund.

C. A fiduciary with respect to the Trust Fund may:

1. Invest all or part of the assets of the Trust Fund in deposits which bear the highest interest rate available for funds with the necessary degree of availability in a bank or similar financial institution supervised by the United States or a state, if such bank or other institution is a fiduciary of such plan; or

2. Provide any ancillary service by a bank or similar financial institution supervised by the United States or a state, if such bank or other institution is a fiduciary of such plan.

D. A person or a financial institution is a fiduciary with respect to the Trust Fund to the extent that the person or the financial institution:

1. Exercises any discretionary authority or discretionary control respecting management of the Trust Fund or exercises any authority or control respecting management or disposition of the assets of the Trust Fund;

2. Renders investment advice for a fee or other compensation, direct or indirect, with respect to any monies or other property of the Trust Fund, or has any authority or responsibility to do so; or

3. Has any discretionary authority or discretionary responsibility in the administration of the Trust Fund.

SECTION 9. This act shall become effective July 1, 1992.

SECTION 10. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 14th day of May, 1992.

President of the Senate

Passed the House of Representatives the 27th day of May, 1992.

Speaker of the House of Representatives