

SHORT TITLE: Schools; enacting the Oklahoma Early Graduation Incentive Act; codification; effective date; emergency.

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

SENATE BILL NO. 889

By: Rubottom

AS INTRODUCED

An Act relating to schools; amending 70 O.S. 1991, Sections 3954, as last amended by Section 1, Chapter 391, O.S.L. 1992 and 3955, as amended by Section 8, Chapter 353, O.S.L. 1992 (70 O.S. Supp. 1993, Sections 3954 and 3955), which relate to the Oklahoma State Regents for Higher Education as trustees of various trust funds and fiduciary duties of trustees of various trust funds; providing short title; enacting the Oklahoma Early Graduation Incentive Act; creating the Oklahoma Early Graduation Incentive Program; requiring establishment of policies and promulgation of rules by the Oklahoma State Regents for Higher Education and the State Department of Education; establishing certain requirements for eligibility and retention of eligibility for certain program; establishing Oklahoma Early Graduation Incentive 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 11-103.6b 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 Early  
Graduation Incentive Act".

SECTION 2. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 11-103.6c of Title 70, unless  
there is created a duplication in numbering, reads as follows:

There is hereby created the Oklahoma Early Graduation Incentive  
Program. The purpose of the program is to provide an incentive for  
students who have the ability and the desire to complete their high  
school education through the proficiency-based promotional system  
and to provide an incentive to public schools to develop a  
proficiency-based system and encourage students to complete their  
high school education through the proficiency-based promotional  
system.

SECTION 3. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 11-103.6d of Title 70, unless  
there is created a duplication in numbering, reads as follows:

A. For purposes of this section the targeted graduation date is  
the last day of the fourth school year following either the  
beginning of the student's ninth-grade year or the student's 14th  
birthday whichever is later. A fraction of a year shall not be  
counted for purposes of computing the number of years the student  
graduated before the targeted graduation date.

B. Beginning with the 1994-95 school year each student in any public school who attains the competency levels in the core curriculum required to earn a high school diploma pursuant to the proficiency-based promotional system as provided in Section 11-103.6 of Title 70 of the Oklahoma Statutes one (1) year or more before the student's targeted graduation date shall be eligible to participate in the Oklahoma Early Graduation Incentive Program. For each year the student finishes before the targeted graduation date, the student may obtain a grant in the amount of One Thousand Dollars (\$1,000.00) to be applied toward expenses incurred in attending an accredited institution of higher education within the State of Oklahoma under the terms set forth in subsection D of this section.

C. Beginning with the 1994-95 school year each public school district at which a student earns a high school diploma at least one year before the student's targeted graduation date shall be eligible for a grant from the Early Graduation Incentive Grant Trust Fund created in Section 4 of this act in the amount of One Thousand Dollars (\$1,000.00) per student for each year a student finishes before the targeted graduation date, provided the student attends an institution of higher education within the State of Oklahoma for at least one year for each grant of One Thousand Dollars (\$1,000.00).

D. To be eligible to receive a grant from the Oklahoma Early Graduation Incentive Grant Trust Fund, a student shall:

1. Be a resident of this state;
2. Have satisfied the high school core curriculum by attaining the competency levels required to earn a high school diploma pursuant to the proficiency-based promotional system as provided in Section 11-103.6 of Title 70 of the Oklahoma Statutes one (1) year or more before the student's targeted graduation date;
3. 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; and

4. Have secured admission to, and enrolled in, an institution which is a member 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.

E. To retain eligibility for any unused portions of the total grants to which student is entitled, the student shall maintain good academic standing and satisfactory academic progress according to standards of the Oklahoma State Regents for Higher Education.

F. The award of any grant from the Oklahoma Early Graduation Incentive Trust Fund is subject to the availability of funds. Benefits awarded from the Oklahoma Early Graduation Incentive Trust Fund 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. If funds are not available for all eligible applicants, the awards shall be made on the basis of date of qualification. For all academic years, students who have previously received awards under the provisions of this act and who have continued to fulfill the requirements for continued eligibility to receive awards provided in this act shall be given an absolute priority for continued grants superior to any students who are applying for such benefits for the first time. All student applicants shall have priority superior to any schools that are applying for such benefits.

G. The Oklahoma State Regents for Higher Education may, at the time an award is made on behalf of an Early Graduation Incentive Trust Fund student, set aside in the Early Graduation Incentive Trust Fund funds for the full commitment made to the student.

H. Each One Thousand Dollar (\$1,000.00) grant shall be payable upon successful completion of the first semester of each year during which the student is enrolled in an institution of higher education. A student who completed the first semester but who does not enroll in the second semester shall not be eligible to receive a grant during that year. The student shall not be disqualified from receiving the grant during subsequent years during which the student meets the eligibility requirements.

I. If the district from which the student received the high school diploma has been annexed or consolidated, the annexing or consolidated district shall be eligible for the grants.

J. The State Board of Education shall promulgate rules establishing procedures for giving notice to school districts, parents, and students of the Oklahoma Early Graduation Incentive Program.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3953.2 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 Early Graduation Incentive 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 3 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 Section 3 of this act. The State Regents may also utilize the Trust Fund principal for the purposes provided in Sections 1 through 3 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 Early Graduation Incentive 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 promulgate rules for applications and award of grants from the Oklahoma Early Graduation Incentive Trust Fund.

SECTION 5. AMENDATORY 70 O.S. 1991, Section 3954, as last amended by Section 1, Chapter 391, O.S.L. 1992 (70 O.S. Supp. 1993, 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, as trustees of the Oklahoma State Regents' Academic Scholars Trust Fund, ~~and~~ as trustees of the Oklahoma Higher Learning Access Trust Fund, and as trustees of the Oklahoma Early Graduation Incentive 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 any of the Trust Funds or any combination of such 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 and may pay the fees for the services of such investment managers from the investment proceeds attributable to each 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. Payment of the fees for the custodians' services may be paid from the applicable Trust Fund. 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, the Oklahoma State Regents' Academic Scholars Trust Fund, ~~and~~ the Oklahoma Higher Learning Access Trust Fund, and the Oklahoma Early Graduation Incentive 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 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, the Oklahoma State Regents' Academic Scholars Trust Fund, ~~and~~ the Oklahoma Higher Learning Access Trust Fund, and the Oklahoma Early Graduation

Incentive 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 6. AMENDATORY 70 O.S. 1991, Section 3955, as amended by Section 8, Chapter 353, O.S.L. 1992 (70 O.S. Supp. 1993, Section 3955), is amended to read as follows:

Section 3955. A. A fiduciary with respect to the Oklahoma State Regents' Endowment Trust Fund, the Oklahoma State Regents' Academic Scholars Trust Fund, ~~or~~ the Oklahoma Higher Learning Access Trust Fund, or the Oklahoma Early Graduation Incentive 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 7. This act shall become effective July 1, 1994.

SECTION 8. 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.

