

ENROLLED SENATE
BILL NO. 520

By: Robinson, Coffee and Cain
of the Senate

and

Staggs, Perry, Vaughn,
Calvey, Steele, and Nance
of the House

An Act relating to higher education; creating the Oklahoma Tuition Equalization Grant Act; providing short title; creating the Oklahoma Tuition Equalization Grant Program; stating purpose; providing criteria for eligibility; directing institutions to forward applications by certain dates; making grant contingent upon availability of certain funds; stating amount of grant; providing procedures for payment of grants; authorizing the Oklahoma State Regents for Higher Education to implement policies and procedures for administration; stating requirements for eligible institutions; stating priority for awarding grants; setting certain conditions for maximum grant award; authorizing exceptions for hardship circumstances; directing State Regents to provide certain annual report; creating Oklahoma Tuition Equalization Grant Trust Fund; authorizing use of certain fund; stating composition of principal of certain fund; authorizing income and investment return to accrue to certain fund; authorizing State Regents to adopt certain rules and allocate certain funds; prohibiting allocation of funds for certain expenses; amending 70 O.S. 2001, Section 3954 and 3955, as amended by Sections 2 and 3, Chapter 99, O.S.L. 2002 (70 O.S. Supp. 2002, Sections 3954 and 3955), which relate to duties of Oklahoma State Regents for Higher Education as trustees of certain funds; making State Regents trustees for Oklahoma Tuition Equalization Grant Trust Fund; 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 2630 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 Tuition Equalization Grant Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2631 of Title 70, unless there is created a duplication in numbering, reads as follows:

There is hereby created the Oklahoma Tuition Equalization Grant Program. The purpose of this program is to maximize use of existing educational resources and facilities within this state, both public and private. To accomplish this purpose, the Oklahoma State Regents for Higher Education are authorized to award Oklahoma Tuition Equalization Grants to Oklahoma residents enrolled as undergraduate students in a private or independent institution of higher education that is located in this state and approved by the State Regents pursuant to this act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2632 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. To be eligible for an Oklahoma Tuition Equalization Grant, a student shall:

1. Be an Oklahoma resident as defined by the Oklahoma State Regents for Higher Education;
2. Have enrolled as a full-time undergraduate student in an eligible institution of higher education as prescribed in subsection D of this section;
3. Meet the income eligibility level, which is the student's parents' income from taxable and nontaxable sources which shall not be more than Fifty Thousand Dollars (\$50,000.00) per year or the student's income if the student is independent and self-supporting as determined by the State Regents consistent with federal financial aid regulations;
4. Pay more tuition than is required at a comparable public institution of higher education and pay no less than the regular tuition required of all students enrolled at the institution where the student is enrolled; and
5. Maintain at least minimum standards of academic performance as required by the enrolling institution.

B. The enrolling institution shall forward a completed student application, documentation of full-time enrollment status, and certification of resident status to the State Regents no later than October 15 for the fall semester and March 15 for the spring semester of each academic year.

C. Subject to the availability of funds in the Oklahoma Tuition Equalization Grant Trust Fund, an Oklahoma Tuition Equalization Grant in the amount of Two Thousand Dollars (\$2,000.00) per academic year, or One Thousand Dollars (\$1,000.00) per academic semester shall be awarded by the State Regents by allocation from the

Oklahoma Tuition Equalization Grant Trust Fund, beginning with eligible students enrolled in the 2003-2004 school year. No grants pursuant to this act shall be provided to students for attending summer terms or intersessions.

D. The State Regents shall implement policies and procedures for the administration of this act. The State Regents shall approve as eligible institutions of higher education only those private or independent, not-for-profit colleges or universities that are domiciled within this state, meet approved program and accreditation standards as determined by the State Regents, and are fully accredited by the Higher Learning Commission of the North Central Association on Colleges and Schools.

E. If funds are not sufficient in the Oklahoma Tuition Equalization Grant Trust Fund to provide grants for all eligible applicants, the State Regents shall award grants on the basis of need and take into consideration other grants and scholarships received by an eligible applicant when awarding grants. Students who have previously received a tuition equalization grant and who continue to meet the requirements for eligibility shall have absolute priority for continued financial support superior to any student who is applying for a grant for the first time.

F. Students enrolling as first-time freshmen for the 2003-2004 school year shall be the first class of students eligible to apply for Oklahoma Tuition Equalization Grants. In subsequent years, all previously eligible students and the first-time enrolling freshmen students shall be entitled to apply for a grant pursuant to this section. Beginning in the 2007-2008 school year, all eligible students shall be entitled to apply for a grant pursuant to this section.

G. A grant provided by this section shall not be allowed for courses or other postsecondary units taken in excess of the requirements for completion of a baccalaureate program or taken more than five (5) years after the student's first semester of postsecondary enrollment. The State Regents may award an Oklahoma Tuition Equalization Grant for courses of postsecondary units taken more than five (5) years after the student's first semester of postsecondary enrollment only in hardship circumstances; provided, however, no Oklahoma Tuition Equalization Grant recipient may receive benefits beyond a cumulative time period of five (5) years.

H. On or before February 1st after the first semester in which grants are awarded pursuant to this act and every year thereafter, the State Regents shall provide a report to the Governor, President Pro Tempore of the Senate, and the Speaker of the House of Representatives to include, but not be limited to the number of students awarded grants, grade point average, persistence rates, degree completion rates, demographic data, and any other indicators the State Regents deem appropriate.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3953.4 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 Tuition Equalization Grant Trust Fund". The Oklahoma State Regents for Higher Education shall be the trustees of the Trust Fund.

B. The State Regents shall utilize the 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 State Regents 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 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 Tuition Equalization Grant Program established by this act shall be paid from monies appropriated to the State Regents' coordinating board for their general operating budget.

E. The State Regents shall adopt rules for accomplishing transfer of funds from the Oklahoma Tuition Equalization Grant Trust Fund to the appropriate private institution for payment of a portion of the tuition for eligible students pursuant to this act. Allocations from the Trust Fund may be made only for the purpose of payment of a portion of the tuition for eligible students. No portion of the Trust Fund may be used or allocated for administrative or operating expenses of any higher education institution.

SECTION 5. AMENDATORY 70 O.S. 2001, Section 3954, as amended by Section 2, Chapter 99, O.S.L. 2002 (70 O.S. Supp. 2002, 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, as trustees of the Oklahoma Higher Learning Access Trust Fund, ~~and~~ as trustees of the Oklahoma GEAR UP Scholarship Trust Fund, and as trustees of the Oklahoma Tuition Equalization Grant 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 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.

C. 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~~ chair 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.

D. 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.

E. 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.

F. 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.

G. 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, the Oklahoma Higher Learning Access Trust Fund, ~~and~~ the Oklahoma GEAR UP Scholarship Trust Fund, and the Oklahoma Tuition Equalization Grant 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~~ Chair of the Joint Committee on Fiscal Operations.

H. After July 1 and before October 1 of each year, the State Regents shall publish four 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~~ Chair 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, the Oklahoma Higher Learning Access Trust Fund, ~~and~~ the Oklahoma GEAR UP Scholarship Trust Fund, and the Oklahoma Tuition Equalization Grant 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 G 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. 2001, Section 3955, as amended by Section 3, Chapter 99, O.S.L. 2002 (70 O.S. Supp. 2002, 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, the Oklahoma Higher Learning Access Trust Fund, ~~or~~ the Oklahoma GEAR UP Scholarship Trust Fund, or the Oklahoma Tuition Equalization Grant 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, 2003.

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.

Passed the Senate the 6th day of May, 2003.

Presiding Officer of the Senate

Passed the House of Representatives the 7th day of May, 2003.

Presiding Officer of the House
of Representatives