

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

SUBCOMMITTEE RECOMMENDATION

FOR

HOUSE BILL NO. 2764

By: Montgomery

SUBCOMMITTEE RECOMMENDATION

An Act relating to education; creating the Oklahoma Education Finance Authority; providing for appointments to the board of trustees; prescribing terms of office; providing for applicability of Oklahoma Open Meeting Act; providing for applicability of Oklahoma Open Records Act; providing exception; authorizing adoption of administrative rules; providing for applicability of Administrative Procedures Act; imposing quorum requirement; authorizing meetings; prescribing minimum number of meetings; authorizing executive director or chief administrative officer; specifying powers and duties with regard to employees; imposing time limit for certain recognition of exempt status; providing for receipt of contributions; requiring investment of principal according to certain standard; providing for expenditure of earnings; authorizing certain expenditure of principal for certain expenses; limiting expenditure of principal based on fiscal year designations; requiring website; prescribing requirements for certain information to be accessible through website; creating the Oklahoma Education Finance Authority Endowment Fund; providing for sources of income; providing for expenditures; prescribing procedures for expenditures; providing for income tax checkoff for the Oklahoma Education Finance Authority Endowment Fund; prescribing procedures for individuals and corporations; providing for codification; and providing an effective date.

1 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

2 SECTION 1. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 28-101 of Title 70, unless there
4 is created a duplication in numbering, reads as follows:

5 A. There is hereby created the Oklahoma Education Finance
6 Authority.

7 B. The Authority shall be governed by a board of trustees
8 consisting of seven (7) members to be selected or appointed as
9 follows:

10 1. The State Superintendent of Public Instruction or a designee
11 shall serve as chair of the Authority;

12 2. Two persons appointed by the Governor, one of whom shall be
13 a member of a statewide association representing school boards of
14 common school districts and one of whom shall be a member of a
15 statewide association representing classroom teachers;

16 3. Two persons appointed by the Speaker of the Oklahoma House
17 of Representatives, one of whom shall have substantial experience in
18 the financial services industry and one of whom shall be a member of
19 a statewide association representing school administration; and

20 4. Two persons appointed by the President Pro Tempore of the
21 Oklahoma State Senate, one of whom shall have substantial experience
22 in the financial services industry.

23 C. One of the appointees initially appointed by the Governor
24 shall serve a term of two (2) years. The other appointee shall

1 serve a term of three (3) years. Thereafter, the term for all
2 appointees of the Governor shall be for three (3) years.

3 D. One of the appointees initially appointed by the Speaker of
4 the Oklahoma House of Representatives shall serve a term of two (2)
5 years. The other appointee shall serve a term of three (3) years.
6 Thereafter, the term of the appointees of the Speaker of the
7 Oklahoma House of Representatives shall be for three (3) years.

8 E. One of the appointees initially appointed by the President
9 Pro Tempore of the Oklahoma State Senate shall serve a term of two
10 (2) years. The other appointee shall serve a term of three (3)
11 years. Thereafter, the term of the appointees of the President Pro
12 Tempore shall be for three (3) years.

13 F. The Authority shall be subject to the Oklahoma Open Meeting
14 Act.

15 G. Unless a specific exemption is applicable, the Authority
16 shall be subject to the Oklahoma Open Records Act.

17 H. The Authority shall have the power to adopt administrative
18 rules, and such rulemaking shall be subject to the applicable
19 provisions of the Oklahoma Administrative Procedures Act.

20 I. A majority of the membership of the board of trustees shall
21 be required to conduct business or take any official action.

22 J. The Authority shall meet as often as required in order to
23 perform the duties imposed upon it but shall meet no less often than
24 quarterly during a calendar or fiscal year.

1 K. The Authority may hire an executive director or chief
2 administrative officer to oversee the operations of the Authority,
3 including but not limited to the receipt of contributions or other
4 income, the proper management of the endowment fund, the
5 disbursement of income from the endowment fund or such other matters
6 as may be required. The executive director or chief administrative
7 officer shall be responsible for the hiring, training, supervision,
8 promotion, discipline, termination or other matters related to the
9 employees of the Authority.

10 L. Within thirty (30) days from the effective date of this act
11 or within thirty (30) days from the date as of which all required
12 appointments to the board of trustees have been made, whichever date
13 occurs last, the Authority shall make application to the Internal
14 Revenue Service for recognition of exempt status either for the
15 Authority or an entity created pursuant to the Oklahoma General
16 Corporation Act, the Oklahoma Limited Liability Company Act, the
17 Oklahoma Revised Limited Partnership Act or such other enactment as
18 may be required in order to provide a method pursuant to which
19 contributions for the purposes described by this act may be made to
20 an entity so that the contributions would be eligible for a
21 deduction as a charitable contribution pursuant to the Internal
22 Revenue Code of 1986, as amended.

23 M. The Authority shall manage the funds under its control with
24 the care, skill, prudence and diligence under the circumstances then

1 prevailing that a prudent person acting in a like capacity and
2 familiar with such matters would use in the conduct of an enterprise
3 of a like character and with like aims and by diversifying the
4 investments of the System so as to minimize the risk of large
5 losses, unless under the circumstances it is clearly prudent not to
6 do so.

7 N. The Authority may engage the services of professional
8 investment advisors, professional fund managers or such other
9 professional services as may be required in order to perform the
10 duties imposed upon it pursuant to law.

11 O. Except as provided by subsection Q of this section, the
12 Authority shall be prohibited from expending any principal amount of
13 funds donated pursuant to the provisions of this act and may only
14 expend interest income, dividend income, proceeds from the sale of
15 assets under its control, if any, or other forms of earnings based
16 upon the investment of the principal amount forming the corpus of
17 the Oklahoma Education Finance Authority Endowment Fund.

18 P. Earnings as described by subsection O of this section may
19 only be expended for salary increases for classroom teachers
20 employed by a common school district, bonuses for such classroom
21 teachers, textbooks, supplies or other materials used in the
22 classroom for a common school district, grants for capital
23 improvements made by a common school district and training or
24 continuing education programs for classroom teachers.

1 Q. Not more than one and five-tenths percent (1.5%) of the
2 earnings from the Oklahoma Education Finance Authority Endowment
3 Fund may be used for the administrative costs of the Authority which
4 shall include any per diem or travel expenses for the members of the
5 board of trustees.

6 R. For the fiscal years ending June 30, 2017, and June 30,
7 2018, not more than two percent (2.0%) of the principal of the
8 Oklahoma Education Finance Authority Endowment Fund may be used for
9 the administrative costs of the Authority.

10 S. The Authority shall create and maintain or cause to be
11 created and maintained an Internet website which provides detailed
12 information regarding amounts contributed to the Oklahoma Education
13 Finance Authority Endowment Fund, the expenses of the fund and the
14 operational expenditures of the Authority. Such information shall
15 also be compiled into an annual report and provided to each person
16 or entity making a contribution to the Authority.

17 SECTION 2. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 28-102 of Title 70, unless there
19 is created a duplication in numbering, reads as follows:

20 There is hereby created in the State Treasury a revolving fund
21 for the Oklahoma Education Finance Authority to be designated the
22 "Oklahoma Education Finance Authority Endowment Fund". The fund
23 shall be a continuing fund, not subject to fiscal year limitations,
24 and shall consist of all monies received by the Oklahoma Education

1 Finance Authority from contributions made to the Authority or from
2 other lawfully authorized sources including funds from income tax
3 checkoffs authorized pursuant to Section 3 of this act. All monies
4 accruing to the credit in the form of interest income, earnings,
5 dividends or other sources of income not consisting of principal or
6 corpus of said fund are hereby appropriated and may be budgeted and
7 expended by the Oklahoma Education Finance Authority for the purpose
8 of providing funding for common education as described in Section 1
9 of this act. Expenditures from said fund shall be made upon
10 warrants issued by the State Treasurer against claims filed as
11 prescribed by law with the Director of the Office of Management and
12 Enterprise Services for approval and payment.

13 SECTION 3. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 2368.28 of Title 68, unless
15 there is created a duplication in numbering, reads as follows:

16 A. Each state individual income tax return form for tax years
17 which begin after December 31, 2016, and each state corporate tax
18 return form for tax years beginning after December 31, 2016, shall
19 contain a provision to allow a donation from a tax refund for the
20 benefit of the Oklahoma Education Finance Authority Endowment Fund
21 as follows:

22 Support of Oklahoma Education Finance Authority Endowment Fund.
23 Check if you wish to donate from your tax refund: () \$2, () \$5,
24 or () \$____.

1 B. Except as otherwise provided for in this section, all monies
2 generated pursuant to subsection A of this section shall be paid to
3 the State Treasurer by the Oklahoma Tax Commission and placed to the
4 credit of the Income Tax Checkoff Revolving Fund for the Support of
5 Oklahoma Education Finance Authority Endowment Fund created in
6 subsection C of this section.

7 C. There is hereby created in the State Treasury a revolving
8 fund for the Oklahoma Education Finance Authority to be designated
9 the "Income Tax Checkoff Revolving Fund for the Support of Oklahoma
10 Education Finance Authority Endowment Fund". The fund shall be a
11 continuing fund, not subject to fiscal year limitations, and shall
12 consist of all monies apportioned to the fund pursuant to the
13 provisions of this section. All monies accruing to the credit of
14 the fund are hereby appropriated and may be budgeted and expended by
15 the Oklahoma Education Finance Authority for the purpose of funding
16 common education in this state consistent with the requirements of
17 Section 1 of this act. Expenditures from the fund shall be made
18 upon warrants issued by the State Treasurer against claims filed as
19 prescribed by law with the Director of the Office of Management and
20 Enterprise Services for approval and payment.

21 D. If a taxpayer makes a donation pursuant to subsection A of
22 this section in error, such taxpayer may file a claim for refund at
23 any time within three (3) years from the due date of the tax return.
24 Such claims shall be filed pursuant to the provisions of Section

1 2373 of Title 68 of the Oklahoma Statutes. Prior to the
2 apportionment set forth in this section, an amount equal to the
3 total amount of refunds made pursuant to this subsection during any
4 one (1) year shall be deducted from the total donations received
5 pursuant to this section during the following year and such amount
6 deducted shall be paid to the State Treasurer and placed to the
7 credit of the Income Tax Withholding Refund Account.

8 SECTION 4. This act shall become effective November 1, 2016.

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