

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 2438

By: Roberts (Sean)

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5
6 AS INTRODUCED

7 An Act relating to the Oklahoma Education Lottery
8 Act; amending 3A O.S. 2011, Section 713, as last
9 amended by Section 1, Chapter 178, O.S.L. 2017 (3A
10 O.S. Supp. 2018, Section 713), which relates to
11 appropriations from the Oklahoma Education Lottery
Trust Fund; modifying appropriations from the fund;
12 providing for appropriation of excess amount;
13 providing an effective date; and declaring an
emergency.

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

15 SECTION 1. AMENDATORY 3A O.S. 2011, Section 713, as last
16 amended by Section 1, Chapter 178, O.S.L. 2017 (3A O.S. Supp. 2018,
17 Section 713), is amended to read as follows:

18 Section 713. A. All gross proceeds shall be the property of
19 the Oklahoma Lottery Commission. From its gross proceeds, the
20 Commission shall pay the operating expenses of the Commission. At
21 least forty-five percent (45%) of gross proceeds shall be made
22 available as prize money. However, the provisions of this
23 subsection shall be deemed not to create any lien, entitlement,
24 cause of action, or other private right, and any rights of holders

1 of tickets or shares shall be determined by the Commission in
2 setting the terms of its lottery or lotteries.

3 B. For each fiscal year, the first Fifty Million Dollars
4 (\$50,000,000.00) of net proceeds shall be transferred to the
5 Oklahoma Education Lottery Trust Fund.

6 C. All of the proceeds remaining after the apportionment
7 required by subsection B of this section shall be transferred to the
8 Oklahoma Education Lottery Trust Fund as provided in Section ~~2~~ 713.1
9 of this ~~act~~ title. The Oklahoma Lottery Commission shall submit a
10 written report of its findings and any recommendations regarding the
11 impact of having the net proceeds minimum requirement set at a fixed
12 dollar amount. The report shall be submitted to the Governor, the
13 Speaker of the Oklahoma House of Representatives and the President
14 Pro Tempore of the Oklahoma State Senate not later than October 1,
15 2019, and annually thereafter.

16 D. There is hereby created in the State Treasury a fund to be
17 designated the "Oklahoma Education Lottery Trust Fund". Except as
18 otherwise provided in subsections C, J and K of this section, on or
19 before the fifteenth day of each calendar quarter, the Commission
20 shall transfer to the State Treasurer, for credit to the Oklahoma
21 Education Lottery Trust Fund, the amount of all net proceeds
22 accruing during the preceding calendar quarter. Expenditures from
23 the fund shall be made upon warrants issued by the State Treasurer
24 against claims filed as prescribed by law with the Director of the

1 Office of Management and Enterprise Services for approval and
2 payment.

3 E. Upon their deposit into the State Treasury, any monies
4 representing a deposit of net proceeds shall then become the
5 unencumbered property of this state, and neither the Commission nor
6 the board of trustees shall have the power to agree or undertake
7 otherwise. The monies shall be invested by the State Treasurer in
8 accordance with state investment practices. All earnings
9 attributable to such investments shall likewise be the unencumbered
10 property of the state and shall accrue to the credit of the funds
11 provided for in subsections B and C of this section.

12 F. Monies in the Oklahoma Education Lottery Trust Fund
13 deposited pursuant to subsection B of this section shall only be
14 appropriated as follows:

15 1. Forty-five percent (45%) for the following:

- 16 a. kindergarten through twelfth grade public education,
17 including but not limited to compensation and benefits
18 for public school teachers and support employees, and
19 b. early childhood development programs, which shall
20 include but not be limited to costs associated with
21 prekindergarten and full-day kindergarten programs;

22 2. Forty-five percent (45%), less Two Dollars (\$2.00) as
23 appropriated in paragraph 3 of this subsection, for the following:
24

- 1 a. tuition grants, loans and scholarships to citizens of
2 this state to enable such citizens to attend colleges
3 and universities located within this state, regardless
4 of whether such colleges and universities are owned or
5 operated by the Oklahoma State Regents for Higher
6 Education, or to attend institutions operated under
7 the authority of the Oklahoma Department of Career and
8 Technology Education; provided such tuition grants,
9 loans and scholarships shall not be made to a citizen
10 of this state to attend a college or university which
11 is not accredited by the Oklahoma State Regents for
12 Higher Education,
- 13 b. construction of educational facilities for elementary
14 school districts, independent school districts, ~~The~~
15 ~~Oklahoma State System of Higher Education,~~ and career
16 and technology education,
- 17 c. capital outlay projects for elementary school
18 districts, independent school districts, ~~The Oklahoma~~
19 ~~State System of Higher Education,~~ and career and
20 technology education,
- 21 d. technology for public elementary school district,
22 independent school district, state higher education,
23 and career and technology education facilities, which
24 shall include but not be limited to costs of providing

1 to teachers at accredited public institutions who
2 teach levels kindergarten through twelfth grade,
3 personnel at technology centers under the authority of
4 the Oklahoma State Department of Career and Technology
5 Education, and professors and instructors within The
6 Oklahoma State System of Higher Education, the
7 necessary training in the use and application of
8 computers and advanced electronic instructional
9 technology to implement interactive learning
10 environments in the classroom and to access the
11 statewide distance learning network and costs
12 associated with repairing and maintaining advanced
13 electronic instructional technology,

14 e. endowed chairs for professors at institutions of
15 higher education operated by The Oklahoma State System
16 of Higher Education, and

17 f. programs and personnel of the Oklahoma School for the
18 Deaf and the Oklahoma School for the Blind;

19 3. One Dollar (\$1.00) for the construction of educational
20 facilities for The Oklahoma State System of Higher Education and One
21 Dollar (\$1.00) for capital outlay projects for The Oklahoma State
22 System of Higher Education. Any amount in excess of One Dollar
23 (\$1.00) appropriated in the fiscal year beginning July 1, 2019, for
24 the construction of educational facilities for The Oklahoma State

1 System of Higher Education or for capital outlay projects for The
2 Oklahoma State System of Higher Education shall be appropriated to
3 kindergarten through twelfth grade public education for investment
4 in textbooks or curriculum technology;

5 4. Five percent (5%) to the School Consolidation and Assistance
6 Fund. When the total amount in the School Consolidation and
7 Assistance Fund from all sources equals Five Million Dollars
8 (\$5,000,000.00), all monies appropriated pursuant to this paragraph
9 which would otherwise be deposited in the School Consolidation and
10 Assistance Fund in excess of Five Million Dollars (\$5,000,000.00)
11 shall be allocated by the State Department of Education to public
12 schools based on the audited end-of-year average daily membership in
13 grades 8 through 12 during the preceding school year for the purpose
14 of purchasing technology equipment in order to conduct on-line
15 testing as required by the Achieving Classroom Excellence Act of
16 2005. If at any time the total amount in the School Consolidation
17 and Assistance Fund drops below Five Million Dollars
18 (\$5,000,000.00), the monies appropriated pursuant to this paragraph
19 shall be deposited in the School Consolidation and Assistance Fund
20 until the Fund again reaches Five Million Dollars (\$5,000,000.00);
21 and

22 ~~4.~~ 5. Five percent (5%) to the Teachers' Retirement System
23 Dedicated Revenue Revolving Fund.

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1 In no instance shall the annual maximum percentage for
2 administrative costs, not including marketing and advertising costs,
3 funds set aside for prizes, commissions paid to retailers, contract
4 fees paid to gaming system vendors and instant ticket providers or
5 emergency-related capital expenses, exceed three percent (3%) of
6 sales.

7 G. The Legislature shall appropriate funds from the Oklahoma
8 Education Lottery Trust Fund only for the purposes specified in
9 subsection F of this section and Section ~~2~~ 713.1 of this ~~act~~ title.
10 Even when funds from the trust fund are used for these purposes, the
11 Legislature shall not use funds from the trust fund to supplant or
12 replace other state funds supporting common education, higher
13 education, or career and technology education.

14 H. In order to ensure that the funds from the trust fund are
15 used to enhance and not supplant funding for education, the State
16 Board of Equalization shall examine and investigate appropriations
17 from the trust fund each year. At the meeting of the State Board of
18 Equalization held within five (5) days after the monthly
19 apportionment in February of each year, the State Board of
20 Equalization shall issue a finding and report which shall state
21 whether appropriations from the trust fund were used to enhance or
22 supplant education funding. If the State Board of Equalization
23 finds that education funding was supplanted by funds from the trust
24 fund, the Board shall specify the amount by which education funding

1 was supplanted. In this event, the Legislature shall not make any
2 appropriations for the ensuing fiscal year until an appropriation in
3 that amount is made to replenish the trust fund.

4 I. Except as otherwise provided by this subsection, no
5 deficiency in the Oklahoma Education Lottery Trust Fund shall be
6 replenished by reducing any nonlottery funds, including specifically
7 but without limitation, the General Revenue Fund, the Constitutional
8 Reserve Fund or the Education Reform Revolving Fund of the State
9 Department of Education. No program or project started specifically
10 from lottery proceeds shall be continued from the General Revenue
11 Fund, the Constitutional Reserve Fund or the Education Reform
12 Revolving Fund of the State Department of Education. Such programs
13 must be adjusted or discontinued according to available lottery
14 proceeds unless the Legislature by general law establishes
15 eligibility requirements and appropriates specific funds therefor.
16 No surplus in the Oklahoma Education Lottery Trust Fund shall be
17 reduced or transferred to correct any nonlottery deficiencies in
18 sums available for general appropriations. The provisions of this
19 subsection shall not apply to bonds or other obligations issued
20 pursuant to or to the repayment of bonds or other obligations issued
21 pursuant to the Oklahoma Higher Education Promise of Excellence Act
22 of 2005.

23 J. There is hereby created in the State Treasury a revolving
24 fund to be designated the "Oklahoma Education Lottery Revolving

1 Fund". The fund shall be a continuing fund, not subject to fiscal
2 year limitations, and shall consist of all monies received by the
3 Commission. The Commission shall make payments of net proceeds from
4 the fund to the Oklahoma Education Lottery Trust Fund on or before
5 the fifteenth day of each calendar quarter as provided in subsection
6 D of this section. All monies accruing to the credit of the
7 Oklahoma Education Lottery Revolving Fund are hereby appropriated
8 and may be budgeted and expended for the payment of net proceeds,
9 prizes, commissions to retailers, administrative expenses and all
10 other expenses arising out of the operation of the education
11 lottery, subject to the limitations provided in the Oklahoma
12 Education Lottery Act. Expenditures from the fund shall be made
13 upon warrants issued by the State Treasurer against claims filed as
14 prescribed by law with the Director of the Office of Management and
15 Enterprise Services for approval and payment.

16 The monies in the fund shall be invested by the State Treasurer
17 in accordance with state investment practices. All earnings
18 attributable to such investments shall likewise accrue to the credit
19 of the fund.

20 K. When appropriations from the Oklahoma Education Lottery
21 Trust Fund are made to common education pursuant to the provisions
22 of paragraph 1 of subsection F of this section, the appropriations
23 shall be made available on a monthly basis. In addition to the
24 provisions of subsections D and E of this section, the following

1 process shall be used to ensure that the appropriations are made
2 available to common education in a timely manner:

3 1. Beginning in July of the fiscal year in which appropriations
4 are made to common education from the Oklahoma Education Lottery
5 Trust Fund, the Commission, on or before the ninth day of each
6 month, shall transfer to the State Treasurer, for credit to the
7 Oklahoma Education Lottery Trust Fund, the amount of net proceeds
8 accruing during the preceding month equal to the amount of total
9 monthly collections due to common education as required by paragraph
10 1 of subsection F of this section;

11 2. The Director of the Office of Management and Enterprise
12 Services shall allocate the transfers provided for in paragraph 1 of
13 this subsection to the State Department of Education on a monthly
14 basis, not to exceed one-twelfth (1/12) of the annual apportionment
15 for the fiscal year; and

16 3. The total amount of transfers to the Oklahoma Education
17 Lottery Trust Fund of net lottery proceeds made pursuant to this
18 subsection shall not exceed the total appropriations made to common
19 education from the Oklahoma Education Lottery Trust Fund for the
20 specific fiscal year.

21 L. When appropriations from the Oklahoma Education Lottery
22 Trust Fund are made to The Oklahoma State System of Higher
23 Education, the appropriations shall be made available to the System
24 on a monthly basis. In addition to the provisions of subsections D

1 and E of this section, the following process shall be used to ensure
2 that the appropriations are made available to The Oklahoma State
3 System of Higher Education in a timely manner:

4 1. Beginning in July of the fiscal year in which appropriations
5 are made to The Oklahoma State System of Higher Education from the
6 Oklahoma Education Lottery Trust Fund, the Commission, on or before
7 the ninth day of each month, shall transfer to the State Treasurer,
8 for credit to the Oklahoma Education Lottery Trust Fund, the amount
9 of net proceeds accruing during the preceding month equal to the
10 amount of total monthly collections due to the Oklahoma State
11 Regents for Higher Education as required by paragraph 2 of
12 subsection F of this section;

13 2. The Director of the Office of Management and Enterprise
14 Services shall allocate the transfers provided for in paragraph 1 of
15 this subsection to the Oklahoma State Regents for Higher Education
16 on a monthly basis, not to exceed one-twelfth (1/12) of the annual
17 apportionment for the fiscal year; and

18 3. The total amount of transfers to the Oklahoma Education
19 Lottery Trust Fund of net lottery proceeds made pursuant to this
20 subsection shall not exceed the total appropriations made to The
21 Oklahoma State System for Higher Education from the Oklahoma
22 Education Lottery Trust Fund for the specific fiscal year.

23 SECTION 2. This act shall become effective July 1, 2019.
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1 SECTION 3. It being immediately necessary for the preservation
2 of the public peace, health or safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

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