

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SUBCOMMITTEE RECOMMENDATION  
FOR

HOUSE BILL NO. 4388

By: Hilbert

SUBCOMMITTEE RECOMMENDATION

An Act relating to amusements and sports; amending 3A O.S. 2021, Section 713, which relates to the Oklahoma Education Lottery Act; requiring proceeds in excess of certain annual amount be deposited to certain fund; creating the Teacher Empowerment Revolving Fund; placing fund with the State Department of Education; establishing fund characteristics; authorizing the budgeting and expenditure of funds for certain purposes; providing for codification; providing an effective date; and providing for conditional effect.

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

SECTION 1. AMENDATORY 3A O.S. 2021, Section 713, is amended to read as follows:

Section 713. A. All gross proceeds shall be the property of the Oklahoma Lottery Commission. From its gross proceeds, the Commission shall pay the operating expenses of the Commission. At least forty-five percent (45%) of gross proceeds shall be made available as prize money. However, the provisions of this subsection shall be deemed not to create any lien, entitlement,

1 cause of action, or other private right, and any rights of holders  
2 of tickets or shares shall be determined by the Commission in  
3 setting the terms of its lottery or lotteries.

4 B. The Oklahoma Lottery Commission shall submit a written  
5 report of its findings and any recommendations regarding the impact  
6 of removing the requirement that net proceeds shall equal at least  
7 thirty-five percent (35%) of the gross proceeds. The report shall  
8 be submitted to the Governor, the Speaker of the Oklahoma House of  
9 Representatives and the President Pro Tempore of the Oklahoma State  
10 Senate not later than October 1, 2020, and annually thereafter.

11 C. There is hereby created in the State Treasury a fund to be  
12 designated the "Oklahoma Education Lottery Trust Fund". Except as  
13 otherwise provided in subsections H and I of this section, on or  
14 before the fifteenth day of each calendar quarter, the Commission  
15 shall transfer to the State Treasurer, for credit to the Oklahoma  
16 Education Lottery Trust Fund, the amount of all net proceeds  
17 accruing during the preceding calendar quarter. Expenditures from  
18 the fund shall be made upon warrants issued by the State Treasurer  
19 against claims filed as prescribed by law with the Director of the  
20 Office of Management and Enterprise Services for approval and  
21 payment.

22 D. Upon their deposit into the State Treasury, any monies  
23 representing a deposit of net proceeds shall then become the  
24 unencumbered property of this state, and neither the Commission nor

1 the board of trustees shall have the power to agree or undertake  
2 otherwise. The monies shall be invested by the State Treasurer in  
3 accordance with state investment practices. All earnings  
4 attributable to such investments shall likewise be the unencumbered  
5 property of the state and shall accrue to the credit of the fund  
6 provided for in subsection C of this section.

7 ~~E. Monies in~~ 1. The first Sixty Million Dollars  
8 (\$60,000,000.00) of monies contributed annually to the Oklahoma  
9 Education Lottery Trust Fund shall only be appropriated as follows:

10 ~~1.~~ a. Forty-five percent (45%) for the following:

11 ~~a.~~ (1) kindergarten through twelfth grade public  
12 education, including but not limited to  
13 compensation and benefits for public school  
14 teachers and support employees, and

15 ~~b.~~ (2) early childhood development programs, which shall  
16 include but not be limited to costs associated  
17 with prekindergarten and full-day kindergarten  
18 programs~~+~~,

19 ~~2.~~ b. Forty-five percent (45%) for the following:

20 ~~a.~~ (1) tuition grants, loans and scholarships to  
21 citizens of this state to enable such citizens to  
22 attend colleges and universities located within  
23 this state, regardless of whether such colleges  
24 and universities are owned or operated by the

Oklahoma State Regents for Higher Education, or  
to attend institutions operated under the  
authority of the Oklahoma Department of Career  
and Technology Education; provided such tuition  
grants, loans and scholarships shall not be made  
to a citizen of this state to attend a college or  
university which is not accredited by the  
Oklahoma State Regents for Higher Education,

~~b.~~ (2) construction of educational facilities for  
elementary school districts, independent school  
districts, The Oklahoma State System of Higher  
Education, and career and technology education,

~~c.~~ (3) capital outlay projects for elementary school  
districts, independent school districts, The  
Oklahoma State System of Higher Education, and  
career and technology education,

~~d.~~ (4) technology for public elementary school district,  
independent school district, state higher  
education, and career and technology education  
facilities, which shall include but not be  
limited to costs of providing to teachers at  
accredited public institutions who teach levels  
kindergarten through twelfth grade, personnel at  
technology centers under the authority of the

Oklahoma State Department of Career and Technology Education, and professors and instructors within The Oklahoma State System of Higher Education, the necessary training in the use and application of computers and advanced electronic instructional technology to implement interactive learning environments in the classroom and to access the statewide distance learning network and costs associated with repairing and maintaining advanced electronic instructional technology,

~~e.~~ (5) endowed chairs for professors at institutions of higher education operated by The Oklahoma State System of Higher Education, and

~~f.~~ (6) programs and personnel of the Oklahoma School for the Deaf and the Oklahoma School for the Blind~~†~~,‡

~~3.~~ c. Five percent (5%) to the School Consolidation and Assistance Fund. When the total amount in the School Consolidation and Assistance Fund from all sources equals Five Million Dollars (\$5,000,000.00), all monies appropriated pursuant to this paragraph which would otherwise be deposited in the School Consolidation and Assistance Fund in excess of Five Million Dollars (\$5,000,000.00) shall be allocated by

1 the State Department of Education to public schools  
2 based on the audited end-of-year average daily  
3 membership in grades 8 through 12 during the preceding  
4 school year for the purpose of purchasing technology  
5 equipment. If at any time the total amount in the  
6 School Consolidation and Assistance Fund drops below  
7 Five Million Dollars (\$5,000,000.00), the monies  
8 appropriated pursuant to this paragraph shall be  
9 deposited in the School Consolidation and Assistance  
10 Fund until the Fund again reaches Five Million Dollars  
11 (\$5,000,000.00)~~+~~and

12 ~~4.~~ d. Five percent (5%) to the Teachers' Retirement System  
13 Dedicated Revenue Revolving Fund.

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

20 ~~F.~~ 2. The remaining portion of lottery annual net proceeds  
21 deposited to the Oklahoma Education Lottery Trust Fund that exceeds  
22 Sixty Million Dollars (\$60,000,000.00) shall be deposited to the  
23 credit of the Teacher Empowerment Revolving Fund created in Section  
24 2 of this act.

1        E. The Legislature shall appropriate funds from the Oklahoma  
2 Education Lottery Trust Fund only for the purposes specified in  
3 subsection ~~E~~ D of this section. Even when funds from the trust fund  
4 are used for these purposes, the Legislature shall not use funds  
5 from the trust fund to supplant or replace other state funds  
6 supporting common education, higher education, or career and  
7 technology education.

8        ~~G.~~ F. In order to ensure that the funds from the trust fund are  
9 used to enhance and not supplant funding for education, the State  
10 Board of Equalization shall examine and investigate appropriations  
11 from the trust fund each year. At the meeting of the State Board of  
12 Equalization held within five (5) days after the monthly  
13 apportionment in February of each year, the State Board of  
14 Equalization shall issue a finding and report which shall state  
15 whether appropriations from the trust fund were used to enhance or  
16 supplant education funding. If the State Board of Equalization  
17 finds that education funding was supplanted by funds from the trust  
18 fund, the Board shall specify the amount by which education funding  
19 was supplanted. In this event, the Legislature shall not make any  
20 appropriations for the ensuing fiscal year until an appropriation in  
21 that amount is made to replenish the trust fund.

22        ~~H.~~ G. Except as otherwise provided by this subsection, no  
23 deficiency in the Oklahoma Education Lottery Trust Fund shall be  
24 replenished by reducing any nonlottery funds, including specifically

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

17 ~~F.~~ H. There is hereby created in the State Treasury a revolving  
18 fund to be designated the "Oklahoma Education Lottery Revolving  
19 Fund". The fund shall be a continuing fund, not subject to fiscal  
20 year limitations, and shall consist of all monies received by the  
21 Commission. The Commission shall make payments of net proceeds from  
22 the fund to the Oklahoma Education Lottery Trust Fund on or before  
23 the fifteenth day of each calendar quarter as provided in subsection  
24 C of this section. All monies accruing to the credit of the



Oklahoma Education Lottery Revolving Fund are hereby appropriated and may be budgeted and expended for the payment of net proceeds, prizes, commissions to retailers, administrative expenses and all other expenses arising out of the operation of the education lottery, subject to the limitations provided in the Oklahoma Education Lottery Act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

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

~~J.~~ I. When appropriations from the Oklahoma Education Lottery Trust Fund are made to common education pursuant to the provisions of subparagraph a of paragraph 1 of subsection ~~E~~ D of this section, the appropriations shall be made available on a monthly basis. In addition to the provisions of subsections C and D of this section, the following process shall be used to ensure that the appropriations are made available to common education in a timely manner:

1. Beginning in July of the fiscal year in which appropriations are made to common education from the Oklahoma Education Lottery Trust Fund, the Commission, on or before the ninth day of each

1 month, shall transfer to the State Treasurer, for credit to the  
2 Oklahoma Education Lottery Trust Fund, the amount of net proceeds  
3 accruing during the preceding month equal to the amount of total  
4 monthly collections due to common education as required by  
5 subparagraph a of paragraph 1 of subsection E D of this section;

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

11 3. The total amount of transfers to the Oklahoma Education  
12 Lottery Trust Fund of net lottery proceeds made pursuant to this  
13 subsection shall not exceed the total appropriations made to common  
14 education from the Oklahoma Education Lottery Trust Fund for the  
15 specific fiscal year.

16 ~~K.~~ J. When appropriations from the Oklahoma Education Lottery  
17 Trust Fund are made to The Oklahoma State System of Higher  
18 Education, the appropriations shall be made available to the System  
19 on a monthly basis. In addition to the provisions of subsections C  
20 and D of this section, the following process shall be used to ensure  
21 that the appropriations are made available to The Oklahoma State  
22 System of Higher Education in a timely manner:

23 1. Beginning in July of the fiscal year in which appropriations  
24 are made to The Oklahoma State System of Higher Education from the

Oklahoma Education Lottery Trust Fund, the Commission, on or before the ninth day of each month, shall transfer to the State Treasurer, for credit to the Oklahoma Education Lottery Trust Fund, the amount of net proceeds accruing during the preceding month equal to the amount of total monthly collections due to the Oklahoma State Regents for Higher Education as required by subparagraph b of paragraph 2 1 of subsection ~~E~~ D of this section;

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

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

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-190.2 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created in the State Treasury a revolving fund for the State Department of Education to be designated the "Teacher Empowerment Revolving Fund". The revolving fund shall be a continuing fund, without legislative appropriation, not subject to

1 fiscal year limitations, and shall be under the control and  
2 management of the State Department of Education. Expenditures from  
3 the Teacher Empowerment Revolving Fund shall be budgeted and  
4 expended as provided for in subsection B of this section.

5 B. The State Department of Education shall utilize the funds  
6 for the program outlined in Section 6-190 of Title 70 of the  
7 Oklahoma Statutes. Funding shall go toward advanced, lead, and  
8 master certificate holders on a first-come, first-served basis until  
9 the cash is exhausted for the school year. Funds from the Teacher  
10 Empowerment Revolving Fund shall serve as a state match to local  
11 dollars each school district contributes to their advanced, lead,  
12 and master teachers as provided in Section 713 of Title 3A of the  
13 Oklahoma Statutes.

14 SECTION 3. This act shall become effective November 1, 2022.

15 SECTION 4. The provisions of this act shall be contingent upon  
16 the enactment of the provisions of House Bill No. 4387 of the 2nd  
17 Session of the 58th Oklahoma Legislature and shall not become  
18 operative as law otherwise.

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