

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 58th Legislature (2022)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 4388

By: Hilbert and **Baker**

7
8 COMMITTEE SUBSTITUTE

9 [amusements and sports - Oklahoma Education Lottery
10 Act - Teacher Empowerment Revolving Fund -
11 effective date - conditional effect]
12
13

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

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

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

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

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

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

21 D. Upon their deposit into the State Treasury, any monies
22 representing a deposit of net proceeds shall then become the
23 unencumbered property of this state, and neither the Commission nor
24 the board of trustees shall have the power to agree or undertake

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

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

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

10 ~~a.~~ (1) kindergarten through twelfth grade public

11 education, including but not limited to

12 compensation and benefits for public school

13 teachers and support employees, and

14 ~~b.~~ (2) early childhood development programs, which shall

15 include but not be limited to costs associated

16 with prekindergarten and full-day kindergarten

17 programs~~;~~,

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

19 ~~a.~~ (1) tuition grants, loans and scholarships to

20 citizens of this state to enable such citizens to

21 attend colleges and universities located within

22 this state, regardless of whether such colleges

23 and universities are owned or operated by the

24 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

1 Technology Education, and professors and
2 instructors within The Oklahoma State System of
3 Higher Education, the necessary training in the
4 use and application of computers and advanced
5 electronic instructional technology to implement
6 interactive learning environments in the
7 classroom and to access the statewide distance
8 learning network and costs associated with
9 repairing and maintaining advanced electronic
10 instructional technology,

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

14 ~~f.~~ (6) programs and personnel of the Oklahoma School for
15 the Deaf and the Oklahoma School for the Blind, ~~g.~~

16 ~~3.~~ c. Five percent (5%) to the School Consolidation and
17 Assistance Fund. When the total amount in the School
18 Consolidation and Assistance Fund from all sources
19 equals Five Million Dollars (\$5,000,000.00), all
20 monies appropriated pursuant to this paragraph which
21 would otherwise be deposited in the School
22 Consolidation and Assistance Fund in excess of Five
23 Million Dollars (\$5,000,000.00) shall be allocated by
24 the State Department of Education to public schools

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

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

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

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

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

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

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

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

COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated 03/02/2022 - DO PASS, As Amended and Coauthored.