

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 4388

By: Baker

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5  
6 AS INTRODUCED

7 An Act relating to amusements and sports; amending 3A  
8 O.S. 2021, Section 713, which relates to the Oklahoma  
9 Education Lottery Act; requiring proceeds in excess  
10 of certain annual amount be deposited to certain  
11 fund; creating the Teacher Empowerment Fund; placing  
12 fund with the State Department of Education;  
13 establishing fund characteristics; establishing  
14 funding procedures; providing instructions for use of  
15 funds that are not expended; providing an effective  
16 date; and providing for conditional effect.

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

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

20 Section 713. A. All gross proceeds shall be the property of  
21 the Oklahoma Lottery Commission. From its gross proceeds, the  
22 Commission shall pay the operating expenses of the Commission. At  
23 least forty-five percent (45%) of gross proceeds shall be made  
24 available as prize money. However, the provisions of this  
subsection shall be deemed not to create any lien, entitlement,  
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. 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 I and J 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 the Oklahoma Education Lottery Trust Fund shall  
7 only be appropriated as follows:

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

- 9 a. kindergarten through twelfth grade public education,  
10 including but not limited to compensation and benefits  
11 for public school teachers and support employees, and
- 12 b. early childhood development programs, which shall  
13 include but not be limited to costs associated with  
14 prekindergarten and full-day kindergarten programs;

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

- 16 a. tuition grants, loans and scholarships to citizens of  
17 this state to enable such citizens to attend colleges  
18 and universities located within this state, regardless  
19 of whether such colleges and universities are owned or  
20 operated by the Oklahoma State Regents for Higher  
21 Education, or to attend institutions operated under  
22 the authority of the Oklahoma Department of Career and  
23 Technology Education; provided such tuition grants,  
24 loans and scholarships shall not be made to a citizen

1 of this state to attend a college or university which  
2 is not accredited by the Oklahoma State Regents for  
3 Higher Education,

4 b. construction of educational facilities for elementary  
5 school districts, independent school districts, The  
6 Oklahoma State System of Higher Education, and career  
7 and technology education,

8 c. capital outlay projects for elementary school  
9 districts, independent school districts, The Oklahoma  
10 State System of Higher Education, and career and  
11 technology education,

12 d. technology for public elementary school district,  
13 independent school district, state higher education,  
14 and career and technology education facilities, which  
15 shall include but not be limited to costs of providing  
16 to teachers at accredited public institutions who  
17 teach levels kindergarten through twelfth grade,  
18 personnel at technology centers under the authority of  
19 the Oklahoma State Department of Career and Technology  
20 Education, and professors and instructors within The  
21 Oklahoma State System of Higher Education, the  
22 necessary training in the use and application of  
23 computers and advanced electronic instructional  
24 technology to implement interactive learning

1 environments in the classroom and to access the  
2 statewide distance learning network and costs  
3 associated with repairing and maintaining advanced  
4 electronic instructional technology,

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

8 f. programs and personnel of the Oklahoma School for the  
9 Deaf and the Oklahoma School for the Blind;

10 3. Five percent (5%) to the School Consolidation and Assistance  
11 Fund. When the total amount in the School Consolidation and  
12 Assistance Fund from all sources equals Five Million Dollars  
13 (\$5,000,000.00), all monies appropriated pursuant to this paragraph  
14 which would otherwise be deposited in the School Consolidation and  
15 Assistance Fund in excess of Five Million Dollars (\$5,000,000.00)  
16 shall be allocated by the State Department of Education to public  
17 schools based on the audited end-of-year average daily membership in  
18 grades 8 through 12 during the preceding school year for the purpose  
19 of purchasing technology equipment. If at any time the total amount  
20 in the School Consolidation and Assistance Fund drops below Five  
21 Million Dollars (\$5,000,000.00), the monies appropriated pursuant to  
22 this paragraph shall be deposited in the School Consolidation and  
23 Assistance Fund until the Fund again reaches Five Million Dollars  
24 (\$5,000,000.00); and

1 4. Five percent (5%) to the Teachers' Retirement System  
2 Dedicated Revenue Revolving Fund.

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

9 F. The portion of lottery annual net proceeds deposited to the  
10 Oklahoma Education Lottery Trust Fund that exceeds Sixty Million  
11 Dollars (\$60,000,000.00) shall be deposited into a Teacher  
12 Empowerment Fund and appropriated by the Legislature on a cash basis  
13 to be allocated by the State Department of Education to serve as a  
14 state match to local public school dollars allocated for advanced,  
15 lead, and master teaching certificates as outlined in Section 6-190  
16 of Title 70 of the Oklahoma Statutes starting in the 2022-23 school  
17 year. The fund shall be a continuing fund, not subject to fiscal  
18 year limitations, and initial funding for the 2022-23 program will  
19 start with an initial cash appropriation of Twenty Million Dollars  
20 (\$20,000,000.00) funded through the additional profit contributed by  
21 the Lottery that exceeds the fiscal year 2021 appropriation. Annual  
22 funding for 2023 and beyond will be based on dollars contributed  
23 above the base appropriation of Sixty Million Dollars  
24 (\$60,000,000.00). If all of the funds are not expended annually out

1 of the Teacher Empowerment Fund, the funds will roll over for use in  
2 the next fiscal year and accrue annually for use as outlined in  
3 Section 6-190 of Title 70 of the Oklahoma Statutes.

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

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

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

20       ~~I.~~ J. There is hereby created in the State Treasury a revolving  
21 fund to be designated the "Oklahoma Education Lottery Revolving  
22 Fund". The fund shall be a continuing fund, not subject to fiscal  
23 year limitations, and shall consist of all monies received by the  
24 Commission. The Commission shall make payments of net proceeds from



1 the fund to the Oklahoma Education Lottery Trust Fund on or before  
2 the fifteenth day of each calendar quarter as provided in subsection  
3 C of this section. All monies accruing to the credit of the  
4 Oklahoma Education Lottery Revolving Fund are hereby appropriated  
5 and may be budgeted and expended for the payment of net proceeds,  
6 prizes, commissions to retailers, administrative expenses and all  
7 other expenses arising out of the operation of the education  
8 lottery, subject to the limitations provided in the Oklahoma  
9 Education Lottery Act. Expenditures from the fund shall be made  
10 upon 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 The monies in the fund shall be invested by the State Treasurer  
14 in accordance with state investment practices. All earnings  
15 attributable to such investments shall likewise accrue to the credit  
16 of the fund.

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

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

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

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

19           ~~K.~~ L. When appropriations from the Oklahoma Education Lottery  
20 Trust Fund are made to The Oklahoma State System of Higher  
21 Education, the appropriations shall be made available to the System  
22 on a monthly basis. In addition to the provisions of subsections C  
23 and D of this section, the following process shall be used to ensure  
24

1 that the appropriations are made available to The Oklahoma State  
2 System of Higher Education in a timely manner:

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

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

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

22 SECTION 2. This act shall become effective November 1, 2022.

23 SECTION 3. The provisions of this act shall be contingent upon  
24 the enactment of the provisions of House Bill No. \_\_\_\_ of the 2nd

1 Session of the 58th Oklahoma Legislature and shall not become  
2 operative as law otherwise.

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