

1 **SENATE FLOOR VERSION**

2 February 27, 2023

3 SENATE BILL NO. 612

By: Howard of the Senate

4 and

5 Osburn of the House

6
7
8 An Act relating to the Oklahoma Lottery; amending 3A
9 O.S. 2021, Sections 712, 713, as amended by Section
10 1, Chapter 359, O.S.L. 2022, 724, and 733 (3A O.S.
11 Supp. 2022, Section 713), which relate to the
12 Oklahoma Lottery Commission, prize claims, and the
13 board of trustees; expanding required background
14 checks for certain applicants; requiring annual
15 background checks for Commission employees; deleting
16 Commission requirement to pay for certain
17 investigations and contract with the Oklahoma State
18 Bureau of Investigation; deleting requirement to
19 submit certain report; deleting requirement to
20 display certain certificate; modifying certain
21 information required for submission; modifying
22 required date for submission of certain information;
23 modifying threshold for certain information required
24 to claim prize; modifying information required to
claim certain prize; amending 51 O.S. 2021, Section
24A.5, which relates to the Oklahoma Open Records
Act; providing exception; repealing 3A O.S. 2021,
Sections 706 and 734, which relate to Lottery
Retailer Advisory Board and Oklahoma Lottery
Commission Legislative Oversight Committee; updating
statutory reference; and providing an effective date.

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

23 SECTION 1. AMENDATORY 3A O.S. 2021, Section 712, is
24 amended to read as follows:

1 Section 712. A. The executive director of the Oklahoma Lottery
2 Commission, with the approval of the board of trustees, shall employ
3 such personnel as may be necessary to carry out the provisions of
4 this act and shall set the compensation and terms of compensation of
5 such employees. All offices, positions, and personnel of the
6 Oklahoma Lottery Commission shall be in the unclassified service.

7 B. No employee of the Commission shall have a financial
8 interest in any vendor doing business or proposing to do business
9 with the Commission.

10 C. No employee of the Commission shall participate in any
11 decision involving a retailer with whom the employee has a financial
12 interest.

13 D. No employee of the Commission who leaves the employment of
14 the Commission may represent any vendor or lottery retailer before
15 the Commission for a period of two (2) years following termination
16 of employment with the Commission.

17 E. A background investigation shall be conducted on each
18 applicant who has reached the final selection process prior to
19 employment by the Commission ~~at the level of division director and~~
20 ~~above and at any level within any division of security and as~~
21 ~~otherwise required by the board of trustees of the Oklahoma Lottery~~
22 ~~Commission. The Commission shall pay for the actual cost of the~~
23 ~~investigations and shall contract with the Oklahoma State Bureau of~~
24 ~~Investigation for the performance of the investigations~~ and on every

1 employee of the Commission for each calendar year. The results of
2 a background investigation shall not be considered a record open to
3 the public pursuant to the Oklahoma Open Records Act.

4 F. No person who has been convicted of any felony or a
5 misdemeanor involving illegal gambling or involving moral turpitude
6 shall be employed by the Commission, nor shall the Commission employ
7 a person who is awaiting sentencing on a plea of guilt or nolo
8 contendere to such a felony or misdemeanor.

9 G. The Commission shall bond Commission employees with access
10 to Commission funds or lottery revenue in an amount specified by the
11 board and may bond other employees as deemed necessary.

12 SECTION 2. AMENDATORY 3A O.S. 2021, Section 713, as
13 amended by Section 1, Chapter 359, O.S.L. 2022 (3A O.S. Supp. 2022,
14 Section 713), is amended to read as follows:

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

24

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

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

19 ~~D.~~ C. Upon their deposit into the State Treasury, any monies
20 representing a deposit of net proceeds shall then become the
21 unencumbered property of this state, and neither the Commission nor
22 the board of trustees shall have the power to agree or undertake
23 otherwise. The monies shall be invested by the State Treasurer in
24 accordance with state investment practices. All earnings

1 attributable to such investments shall likewise be the unencumbered
2 property of the state and shall accrue to the credit of the fund
3 provided for in subsection ~~E~~ B of this section.

4 1. The first Sixty-five Million Dollars (\$65,000,000.00) of
5 monies contributed annually to the Oklahoma Education Lottery Trust
6 Fund shall only be appropriated as follows:

7 a. forty-five percent (45%) for the following:

8 (1) kindergarten through twelfth grade public

9 education, including but not limited to

10 compensation and benefits for public school

11 teachers and support employees, and

12 (2) early childhood development programs, which shall

13 include but not be limited to costs associated

14 with prekindergarten and full-day kindergarten

15 programs,

16 b. forty-five percent (45%) for the following:

17 (1) tuition grants, loans and scholarships to

18 citizens of this state to enable such citizens to

19 attend colleges and universities located within

20 this state, regardless of whether such colleges

21 and universities are owned or operated by the

22 Oklahoma State Regents for Higher Education, or

23 to attend institutions operated under the

24 authority of the Oklahoma Department of Career

1 and Technology Education; provided, such tuition
2 grants, loans and scholarships shall not be made
3 to a citizen of this state to attend a college or
4 university which is not accredited by the
5 Oklahoma State Regents for Higher Education,

6 (2) construction of educational facilities for
7 elementary school districts, independent school
8 districts, The Oklahoma State System of Higher
9 Education, and career and technology education,

10 (3) capital outlay projects for elementary school
11 districts, independent school districts, The
12 Oklahoma State System of Higher Education, and
13 career and technology education,

14 (4) technology for public elementary school district,
15 independent school district, state higher
16 education, and career and technology education
17 facilities, which shall include but not be
18 limited to costs of providing to teachers at
19 accredited public institutions who teach levels
20 kindergarten through twelfth grade, personnel at
21 technology centers under the authority of the
22 Oklahoma State Department of Career and
23 Technology Education, and professors and
24 instructors within The Oklahoma State System of

1 Higher Education, the necessary training in the
2 use and application of computers and advanced
3 electronic instructional technology to implement
4 interactive learning environments in the
5 classroom and to access the statewide distance
6 learning network and costs associated with
7 repairing and maintaining advanced electronic
8 instructional technology,

9 (5) endowed chairs for professors at institutions of
10 higher education operated by The Oklahoma State
11 System of Higher Education, and

12 (6) programs and personnel of the Oklahoma School for
13 the Deaf and the Oklahoma School for the Blind,

14 c. five percent (5%) to the School Consolidation and
15 Assistance Fund. When the total amount in the School
16 Consolidation and Assistance Fund from all sources
17 equals Five Million Dollars (\$5,000,000.00), all
18 monies appropriated pursuant to this subparagraph
19 which would otherwise be deposited in the School
20 Consolidation and Assistance Fund in excess of Five
21 Million Dollars (\$5,000,000.00) shall be allocated by
22 the State Department of Education to public schools
23 based on the audited end-of-year average daily
24 membership in grades 8 through 12 during the preceding

1 school year for the purpose of purchasing technology
2 equipment. If at any time the total amount in the
3 School Consolidation and Assistance Fund drops below
4 Five Million Dollars (\$5,000,000.00), the monies
5 appropriated pursuant to this subparagraph shall be
6 deposited in the School Consolidation and Assistance
7 Fund until the Fund again reaches Five Million Dollars
8 (\$5,000,000.00), and

9 d. five percent (5%) to the Teachers' Retirement System
10 Dedicated Revenue Revolving Fund.

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

17 2. The remaining portion of lottery annual net proceeds
18 deposited to the Oklahoma Education Lottery Trust Fund that exceeds
19 Sixty-five Million Dollars (\$65,000,000.00) shall be deposited to
20 the credit of the Teacher Empowerment Revolving Fund created in
21 Section 2 of this act.

22 ~~E.~~ D. The Legislature shall appropriate funds from the Oklahoma
23 Education Lottery Trust Fund only for the purposes specified in
24 subsection ~~D~~ C of this section. Even when funds from the trust fund

1 are used for these purposes, the Legislature shall not use funds
2 from the trust fund to supplant or replace other state funds
3 supporting common education, higher education, or career and
4 technology education.

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

19 ~~G.~~ F. Except as otherwise provided by this subsection, no
20 deficiency in the Oklahoma Education Lottery Trust Fund shall be
21 replenished by reducing any nonlottery funds including, specifically
22 but without limitation, the General Revenue Fund, the Constitutional
23 Reserve Fund, or the Education Reform Revolving Fund of the State
24 Department of Education. No program or project started specifically

1 from lottery proceeds shall be continued from the General Revenue
2 Fund, the Constitutional Reserve Fund, or the Education Reform
3 Revolving Fund of the State Department of Education. Such programs
4 must be adjusted or discontinued according to available lottery
5 proceeds unless the Legislature by general law establishes
6 eligibility requirements and appropriates specific funds therefor.
7 No surplus in the Oklahoma Education Lottery Trust Fund shall be
8 reduced or transferred to correct any nonlottery deficiencies in
9 sums available for general appropriations. The provisions of this
10 subsection shall not apply to bonds or other obligations issued
11 pursuant to or to the repayment of bonds or other obligations issued
12 pursuant to the Oklahoma Higher Education Promise of Excellence Act
13 of 2005.

14 ~~H.~~ G. There is hereby created in the State Treasury a revolving
15 fund to be designated the "Oklahoma Education Lottery Revolving
16 Fund". The fund shall be a continuing fund, not subject to fiscal
17 year limitations, and shall consist of all monies received by the
18 Commission. The Commission shall make payments of net proceeds from
19 the fund to the Oklahoma Education Lottery Trust Fund on or before
20 the fifteenth day of each calendar quarter as provided in subsection
21 ~~C~~ B of this section. All monies accruing to the credit of the
22 Oklahoma Education Lottery Revolving Fund are hereby appropriated
23 and may be budgeted and expended for the payment of net proceeds,
24 prizes, commissions to retailers, administrative expenses and all

1 other expenses arising out of the operation of the education
2 lottery, subject to the limitations provided in the Oklahoma
3 Education Lottery Act. Expenditures from the fund shall be made
4 upon warrants issued by the State Treasurer against claims filed as
5 prescribed by law with the Director of the Office of Management and
6 Enterprise Services for approval and payment.

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

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

19 1. Beginning in July of the fiscal year in which appropriations
20 are made to common education from the Oklahoma Education Lottery
21 Trust Fund, the Commission, on or before the ninth day of each
22 month, shall transfer to the State Treasurer, for credit to the
23 Oklahoma Education Lottery Trust Fund, the amount of net proceeds
24 accruing during the preceding month equal to the amount of total

1 monthly collections due to common education as required by
2 subparagraph a of paragraph 1 of subsection ~~D~~ C of this section;

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

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

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

20 1. Beginning in July of the fiscal year in which appropriations
21 are made to The Oklahoma State System of Higher Education from the
22 Oklahoma Education Lottery Trust Fund, the Commission, on or before
23 the ninth day of each month, shall transfer to the State Treasurer,
24 for credit to the Oklahoma Education Lottery Trust Fund, the amount

1 of net proceeds accruing during the preceding month equal to the
2 amount of total monthly collections due to the Oklahoma State
3 Regents for Higher Education as required by subparagraph b of
4 paragraph 1 of subsection ~~D~~ C of this section;

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

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

15 SECTION 3. AMENDATORY 3A O.S. 2021, Section 724, is
16 amended to read as follows:

17 Section 724. A. Proceeds of any lottery prize shall be subject
18 to the Oklahoma state income tax.

19 B. Attachments, garnishments, or executions authorized and
20 issued pursuant to law shall be withheld if timely served upon the
21 Oklahoma Lottery Commission. This subsection shall not apply to
22 payment of prizes by a retailer.

23 C. The Commission shall adopt policies and procedures to
24 establish a system of verifying the validity of tickets or shares

1 claimed to win prizes and to effect payment of the prizes, except
2 that:

3 1. No prize, any portion of a prize, or any right of any person
4 to a prize awarded shall be assignable. Any prize or any portion of
5 a prize remaining unpaid at the death of a prize winner shall be
6 paid to the estate of the deceased prize winner or to the trustee of
7 a trust established by the deceased prize winner as settlor if a
8 copy of the trust document or instrument has been filed with the
9 Commission along with a notarized letter of direction from the
10 settlor and no written notice of revocation has been received by the
11 Commission prior to the death of the settlor. Following the death
12 of a settlor and prior to any payment to a successor trustee, the
13 Commission shall obtain from the trustee a written agreement to
14 indemnify and hold the Commission harmless with respect to any
15 claims that may be asserted against the Commission arising from
16 payment to or through the trust. Notwithstanding any other
17 provisions of this section, any person, pursuant to an appropriate
18 judicial order, shall be paid the prize to which a winner is
19 entitled;

20 2. No prize shall be paid arising from claimed tickets that
21 are:

22 a. stolen, counterfeit, altered, fraudulent, unissued,
23 produced or issued in error, unreadable, not received,
24

1 or not recorded by the Commission within applicable
2 deadlines,

3 b. lacking in captions that conform and agree with the
4 play symbols as appropriate to the particular lottery
5 game involved, or

6 c. not in compliance with such additional public or
7 confidential validation and security tests of the
8 Commission appropriate to the particular lottery game
9 involved;

10 3. No particular prize in any lottery game shall be paid more
11 than once, and in the event of a determination that more than one
12 claimant is entitled to a particular prize, the sole remedy of the
13 claimants is the award to each of them of an equal share in the
14 prize;

15 4. A holder of a winning cash ticket or share from a lottery
16 game shall claim a cash prize within one hundred eighty (180) days,
17 or for a multistate or multisoovereign lottery game within one
18 hundred eighty (180) days, after the drawing in which the cash prize
19 was won. In any Oklahoma lottery game in which the player may
20 determine instantly if the player has won or lost, the player shall
21 claim a cash prize within ninety (90) days, or for a multistate
22 lottery game within one hundred eighty (180) days, after the end of
23 the lottery game. If a valid claim is not made for a cash prize
24

1 within the applicable period, the cash prize shall constitute an
2 unclaimed prize for purposes of the Oklahoma Education Lottery Act;

3 5. Any person or persons claiming a lottery prize exceeding Six
4 Hundred Dollars (\$600.00) shall provide the Commission with their
5 name, address, social security number or tax identification number,
6 and sufficient valid identification ~~as proof of the same~~ prior to
7 payment of the prize by the Commission. This information shall be
8 confidential for purposes of the Oklahoma Open Records Act, except
9 for the person's first name, city of residence, and prize amount;
10 and

11 6. Any person or persons claiming a lottery prize exceeding
12 Five Thousand Dollars (\$5,000.00) shall provide the Commission with
13 their name, address, social security number or tax identification
14 number, proof of social security number or tax identification
15 number, and sufficient valid identification prior to payment of the
16 prize by the Commission. This information shall be confidential for
17 purposes of the Oklahoma Open Records Act, except for the person's
18 first name, city of residence, and prize amount; and

19 7. Any person or persons claiming a lottery prize exceeding Six
20 Hundred Dollars (\$600.00) as a trust shall provide for each person
21 entitled to any portion of the prize their name, address, social
22 security number or tax identification number, proof of social
23 security number or tax identification number, and sufficient valid
24 identification ~~as proof of the same~~ and trust certifications prior

1 to payment of the prize by the Commission except that such
2 information specified in this paragraph shall be confidential and
3 not subject to the provisions of the Oklahoma Open Records Act.

4 D. No prize shall be paid upon a ticket or share purchased or
5 sold in violation of the Oklahoma Education Lottery Act. Any such
6 prize shall constitute an unclaimed prize for purposes of the
7 Oklahoma Education Lottery Act.

8 E. The Commission is discharged of all liability upon payment
9 of a prize.

10 F. No ticket or share shall be purchased by and no prize shall
11 be paid to any member of the board of trustees of the Oklahoma
12 Lottery Commission, any officer or employee of the Commission, or to
13 any spouse, child, brother, sister, or parent residing as a member
14 of the same household in the principal place of residence of any
15 such person. No ticket or share shall be purchased by and no prize
16 shall be paid to any officer, employee, agent, or subcontractor of
17 any vendor or to any spouse, child, brother, sister, or parent
18 residing as a member of the same household in the principal place of
19 residence of any such person if the officer, employee, agent, or
20 subcontractor has access to confidential information which may
21 compromise the integrity of the lottery.

22 G. Unclaimed prize money shall not constitute net lottery
23 proceeds. The first Seven Hundred Fifty Thousand Dollars
24 (\$750,000.00) of unclaimed prize money accruing annually shall be

1 transferred to the Department of Mental Health and Substance Abuse
2 Services for the treatment of compulsive gambling disorder and
3 educational programs related to such disorder. All other unclaimed
4 prize money shall be added to the pool from which future prizes are
5 to be awarded or used for special prize promotions.

6 SECTION 4. AMENDATORY 3A O.S. 2021, Section 733, is
7 amended to read as follows:

8 Section 733. To ensure the financial integrity of the lottery,
9 the Oklahoma Lottery Commission through its board of trustees shall:

10 1. Submit ~~quarterly and~~ annual reports to the Governor, State
11 Auditor and Inspector, Oklahoma State Bureau of Investigation, and
12 Attorney General, ~~and the oversight committee created by Section 734~~
13 ~~of this title,~~ disclosing the total lottery revenues, prize
14 disbursements, operating expenses, and administrative expenses of
15 the Commission ~~during the reporting period.~~ The annual report shall
16 additionally describe the organizational structure of the Commission
17 and summarize the functions performed by each organizational
18 division within the Commission;

19 2. Adopt a system of internal audits;

20 3. Maintain weekly or more frequent records of lottery
21 transactions, including the distribution of tickets or shares to
22 retailers, revenues received, claims for prizes, prizes paid, prizes
23 forfeited, and other financial transactions of the Commission;

1 4. Contract with a certified public accountant or firm for an
2 annual financial audit of the Commission. The certified public
3 accountant or firm shall have no financial interest in any vendor
4 with whom the Commission is under contract. The certified public
5 accountant or firm shall present an audit report not later than
6 seven (7) months after the end of the fiscal year. The certified
7 public accountant or firm shall evaluate the internal auditing
8 controls in effect during the audit period. The cost of this annual
9 financial audit shall be an operating expense of the Commission.
10 The State Auditor and Inspector may at any time conduct an audit of
11 any phase of the operations of the Commission at the expense of the
12 Commission and shall receive a copy of the annual independent
13 financial audit. A copy of any audit performed by the certified
14 public accountant or firm or the State Auditor and Inspector shall
15 be transmitted to the Governor, the President Pro Tempore of the
16 Senate, and the Speaker of the House of Representatives, and the
17 State Auditor and Inspector, ~~and the cochairs of the oversight~~
18 ~~committee created in Section 734 of this title;~~

19 5. Submit to the Office of Management and Enterprise Services
20 and the State Auditor and Inspector by June 30 of each year a copy
21 of the annual operating budget for the Commission for the next
22 fiscal year. This annual operating budget shall be approved by the
23 board and be on such forms as prescribed by the Office of Management
24 and Enterprise Services; and

1 6. ~~For informational purposes only, submit~~ Submit to the Office
2 of Management and Enterprise Services ~~on September 1~~ by October 1 of
3 each year a proposed ~~operating budget for the Commission for the~~
4 ~~succeeding fiscal year. The budget proposal shall also be~~
5 ~~accompanied by an~~ estimate of the net proceeds to be deposited into
6 the Oklahoma Education Lottery Trust Fund during the succeeding
7 fiscal year. The ~~budget~~ estimate shall be on such forms as
8 prescribed by the Office of Management and Enterprise Services.

9 SECTION 5. AMENDATORY 51 O.S. 2021, Section 24A.5, is
10 amended to read as follows:

11 Section 24A.5. All records of public bodies and public
12 officials shall be open to any person for inspection, copying, or
13 mechanical reproduction during regular business hours; provided:

14 1. The Oklahoma Open Records Act, Sections 24A.1 through 24A.30
15 of this title, does not apply to records specifically required by
16 law to be kept confidential including:

- 17 a. records protected by a state evidentiary privilege
18 such as the attorney-client privilege, the work
19 product immunity from discovery and the identity of
20 informer privileges,
21 b. records of what transpired during meetings of a public
22 body lawfully closed to the public such as executive
23 sessions authorized under the Oklahoma Open Meeting
24 Act,

- 1 c. personal information within driver records as defined
2 by the Driver's Privacy Protection Act, 18 United
3 States Code, Sections 2721 through 2725,
4 d. information in the files of the Board of Medicolegal
5 Investigations obtained pursuant to Sections 940 and
6 941 of Title 63 of the Oklahoma Statutes that may be
7 hearsay, preliminary unsubstantiated investigation-
8 related findings, or confidential medical information,
9 ~~or~~
10 e. any test forms, question banks and answer keys
11 developed for state licensure examinations, but
12 specifically excluding test preparation materials or
13 study guides, or
14 f. last names, addresses, social security numbers or tax
15 identification numbers, and proof of identification
16 submitted to the Oklahoma Lottery Commission by
17 persons claiming a lottery prize;

18 2. All Social Security numbers included in a record may be
19 confidential regardless of the person's status as a public employee
20 or private individual and may be redacted or deleted prior to
21 release of the record by the public body;

22 3. Any reasonably segregable portion of a record containing
23 exempt material shall be provided after deletion of the exempt
24 portions; provided however, the Department of Public Safety shall

1 not be required to assemble for the requesting person specific
2 information, in any format, from driving records relating to any
3 person whose name and date of birth or whose driver license number
4 is not furnished by the requesting person.

5 The Oklahoma State Bureau of Investigation shall not be required
6 to assemble for the requesting person any criminal history records
7 relating to persons whose names, dates of birth, and other
8 identifying information required by the Oklahoma State Bureau of
9 Investigation pursuant to administrative rule are not furnished by
10 the requesting person;

11 4. Any request for a record which contains individual records
12 of persons, and the cost of copying, reproducing or certifying each
13 individual record is otherwise prescribed by state law, the cost may
14 be assessed for each individual record, or portion thereof requested
15 as prescribed by state law. Otherwise, a public body may charge a
16 fee only for recovery of the reasonable, direct costs of record
17 copying, or mechanical reproduction. Notwithstanding any state or
18 local provision to the contrary, in no instance shall the record
19 copying fee exceed twenty-five cents (\$0.25) per page for records
20 having the dimensions of eight and one-half (8 1/2) by fourteen (14)
21 inches or smaller, or a maximum of One Dollar (\$1.00) per copied
22 page for a certified copy. However, if the request:

23 a. is solely for commercial purpose, or
24

1 b. would clearly cause excessive disruption of the
2 essential functions of the public body,
3 then the public body may charge a reasonable fee to recover the
4 direct cost of record search and copying; however, publication in a
5 newspaper or broadcast by news media for news purposes shall not
6 constitute a resale or use of a record for trade or commercial
7 purpose and charges for providing copies of electronic data to the
8 news media for a news purpose shall not exceed the direct cost of
9 making the copy. The fee charged by the Department of Public Safety
10 for a copy in a computerized format of a record of the Department
11 shall not exceed the direct cost of making the copy unless the fee
12 for the record is otherwise set by law.

13 Any public body establishing fees under this act shall post a
14 written schedule of the fees at its principal office and with the
15 county clerk.

16 In no case shall a search fee be charged when the release of
17 records is in the public interest, including, but not limited to,
18 release to the news media, scholars, authors and taxpayers seeking
19 to determine whether those entrusted with the affairs of the
20 government are honestly, faithfully, and competently performing
21 their duties as public servants.

22 The fees shall not be used for the purpose of discouraging
23 requests for information or as obstacles to disclosure of requested
24 information;

1 5. The land description tract index of all recorded instruments
2 concerning real property required to be kept by the county clerk of
3 any county shall be available for inspection or copying in
4 accordance with the provisions of the Oklahoma Open Records Act;
5 provided, however, the index shall not be copied or mechanically
6 reproduced for the purpose of sale of the information;

7 6. A public body must provide prompt, reasonable access to its
8 records but may establish reasonable procedures which protect the
9 integrity and organization of its records and to prevent excessive
10 disruptions of its essential functions. A delay in providing access
11 to records shall be limited solely to the time required for
12 preparing the requested documents and the avoidance of excessive
13 disruptions of the public body's essential functions. In no event
14 may production of a current request for records be unreasonably
15 delayed until after completion of a prior records request that will
16 take substantially longer than the current request. Any public body
17 which makes the requested records available on the Internet shall
18 meet the obligation of providing prompt, reasonable access to its
19 records as required by this paragraph; and

20 7. A public body shall designate certain persons who are
21 authorized to release records of the public body for inspection,
22 copying, or mechanical reproduction. At least one person shall be
23 available at all times to release records during the regular
24 business hours of the public body.

1 SECTION 6. REPEALER 3A O.S. 2021, Sections 706 and 734,
2 are hereby repealed.

3 SECTION 7. This act shall become effective November 1, 2023.

4 COMMITTEE REPORT BY: COMMITTEE ON FINANCE
5 February 27, 2023 - DO PASS
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24