

1 **SENATE FLOOR VERSION**

2 April 12, 2017

3 **AS AMENDED**

4 ENGROSSED HOUSE  
5 BILL NO. 1837

6 By: Osborn (Leslie) of the  
7 House

8 and

9 David of the Senate

10 **[ amusements and sports - Oklahoma Education Lottery  
11 Act - disposition of net proceeds - codification ]**

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

13 SECTION 1. AMENDATORY 3A O.S. 2011, Section 713, as  
14 amended by Section 27, Chapter 304, O.S.L. 2012 (3A O.S. Supp. 2016,  
15 Section 713), is amended to read as follows:

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

1        B. For each fiscal year, the first Fifty Million Dollars  
2 (\$50,000,000.00) of net proceeds shall equal at least thirty-five  
3 percent (35%) of the gross proceeds. However, for the purpose of  
4 repaying indebtedness issued pursuant to Section 732 of this title,  
5 for the first two (2) full fiscal years and any partial first fiscal  
6 year of the Commission, net proceeds need only equal at least thirty  
7 percent (30%) of the gross proceeds be transferred to the Oklahoma  
8 Education Lottery Trust Fund.

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

19        ~~B.~~ D. There is hereby created in the State Treasury a fund to  
20 be designated the "Oklahoma Education Lottery Trust Fund". Except  
21 as otherwise provided in subsections ~~H~~ C, J and ~~I~~ K of this section,  
22 on or before the fifteenth day of each calendar quarter, the  
23 Commission shall transfer to the State Treasurer, for credit to the  
24 Oklahoma Education Lottery Trust Fund, the amount of all net

1 proceeds accruing during the preceding calendar quarter.  
2 Expenditures from the fund shall be made upon warrants issued by the  
3 State Treasurer against claims filed as prescribed by law with the  
4 Director of the Office of Management and Enterprise Services for  
5 approval and payment.

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

15 ~~E.~~ F. Monies in the Oklahoma Education Lottery Trust Fund  
16 deposited pursuant to subsection B of this section shall only be  
17 appropriated as follows:

- 18 1. Forty-five percent (45%) for the following:
  - 19 a. kindergarten through twelfth grade public education,  
20 including but not limited to compensation and benefits  
21 for public school teachers and support employees, and
  - 22 b. early childhood development programs, which shall  
23 include but not be limited to costs associated with  
24 prekindergarten and full-day kindergarten programs;

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

2            a. tuition grants, loans and scholarships to citizens of  
3                    this state to enable such citizens to attend colleges  
4                    and universities located within this state, regardless  
5                    of whether such colleges and universities are owned or  
6                    operated by the Oklahoma State Regents for Higher  
7                    Education, or to attend institutions operated under  
8                    the authority of the Oklahoma Department of Career and  
9                    Technology Education; provided such tuition grants,  
10                    loans and scholarships shall not be made to a citizen  
11                    of this state to attend a college or university which  
12                    is not accredited by the Oklahoma State Regents for  
13                    Higher Education,

14            b. construction of educational facilities for elementary  
15                    school districts, independent school districts, The  
16                    Oklahoma State System of Higher Education, and career  
17                    and technology education,

18            c. capital outlay projects for elementary school  
19                    districts, independent school districts, The Oklahoma  
20                    State System of Higher Education, and career and  
21                    technology education,

22            d. technology for public elementary school district,  
23                    independent school district, state higher education,  
24                    and career and technology education facilities, which

1 shall include but not be limited to costs of providing  
2 to teachers at accredited public institutions who  
3 teach levels kindergarten through twelfth grade,  
4 personnel at technology centers under the authority of  
5 the Oklahoma State Department of Career and Technology  
6 Education, and professors and instructors within The  
7 Oklahoma State System of Higher Education, the  
8 necessary training in the use and application of  
9 computers and advanced electronic instructional  
10 technology to implement interactive learning  
11 environments in the classroom and to access the ~~state-~~  
12 ~~wide~~ statewide distance learning network and costs  
13 associated with repairing and maintaining advanced  
14 electronic instructional technology,

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

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

20 3. Five percent (5%) to the School Consolidation and Assistance  
21 Fund. When the total amount in the School Consolidation and  
22 Assistance Fund from all sources equals Five Million Dollars  
23 (\$5,000,000.00), all monies appropriated pursuant to this paragraph  
24 which would otherwise be deposited in the School Consolidation and

1 Assistance Fund in excess of Five Million Dollars (\$5,000,000.00)  
2 shall be allocated by the State Department of Education to public  
3 schools based on the audited end-of-year average daily membership in  
4 grades 8 through 12 during the preceding school year for the purpose  
5 of purchasing technology equipment in order to conduct on-line  
6 testing as required by the Achieving Classroom Excellence Act of  
7 2005. If at any time the total amount in the School Consolidation  
8 and Assistance Fund drops below Five Million Dollars  
9 (\$5,000,000.00), the monies appropriated pursuant to this paragraph  
10 shall be deposited in the School Consolidation and Assistance Fund  
11 until the Fund again reaches Five Million Dollars ~~(\$5,000,000~~  
12 (\$5,000,000.00); and

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

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

21 ~~D.~~ G. The Legislature shall appropriate funds from the Oklahoma  
22 Education Lottery Trust Fund only for the purposes specified in  
23 subsection ~~C~~ F of this section and Section 2 of this act. Even when  
24 funds from the trust fund are used for these purposes, the

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

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

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

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

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



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

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

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

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

1 monthly collections due to common education as required by paragraph  
2 1 of subsection ~~C~~ F 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 ~~F.~~ L. 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 ~~subsection B~~  
17 subsections D and E of this section, the following process shall be  
18 used to ensure that the appropriations are made available to The  
19 Oklahoma 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 paragraph 2 of  
4 subsection E 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 2. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 713.1 of Title 3A, unless there  
17 is created a duplication in numbering, reads as follows:

18 The portion of lottery annual net proceeds deposited to the  
19 Oklahoma Education Lottery Trust Fund that exceeds Fifty Million  
20 Dollars (\$50,000,000.00) shall be appropriated by the Legislature on  
21 a cash basis to be allocated by the State Department of Education to  
22 public schools based on the audited end-of-year average daily  
23 membership in grades PK-12 during the preceding school year for the  
24 purpose of implementing prekindergarten-through-third-grade reading

1 intervention initiatives or science, technology, engineering and  
2 math (STEM) programs.

3 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS  
4 April 12, 2017 - DO PASS AS AMENDED

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