

1 **SENATE FLOOR VERSION**

2 April 6, 2016

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL NO. 2764

By: Montgomery of the House

and

Ford and Loveless of the
House

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10 [education - Oklahoma Education Finance Authority -
11 board of trustees - receipt of contributions -
12 investment of principal - expenditure of earnings -
Oklahoma Education Finance Authority Endowment Fund -
codification - effective date]

13
14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 28-101 of Title 70, unless there
17 is created a duplication in numbering, reads as follows:

18 A. There is hereby created the Oklahoma Education Finance
19 Authority.

20 B. The Authority shall be governed by a board of trustees
21 consisting of seven (7) members to be selected or appointed as
22 follows:

23 1. The Superintendent of Public Instruction or a designee shall
24 serve as chair of the Authority;

1 2. Two persons appointed by the Governor, one of whom shall be
2 a member of a statewide association representing school boards of
3 common school districts and one of whom shall be a member of a
4 statewide association representing classroom teachers;

5 3. Two persons appointed by the Speaker of the House of
6 Representatives, one of whom shall have substantial experience in
7 the financial services industry and one of whom shall be a member of
8 a statewide association representing school administration; and

9 4. Two persons appointed by the President Pro Tempore of the
10 Senate, one of whom shall have substantial experience in the
11 financial services industry.

12 C. One of the appointees initially appointed by the Governor
13 shall serve a term of two (2) years. The other appointee shall
14 serve a term of three (3) years. Thereafter, the term for all
15 appointees of the Governor shall be for three (3) years.

16 D. One of the appointees initially appointed by the Speaker of
17 the House of Representatives shall serve a term of two (2) years.
18 The other appointee shall serve a term of three (3) years.
19 Thereafter, the term of the appointees of the Speaker of the House
20 of Representatives shall be for three (3) years.

21 E. One of the appointees initially appointed by the President
22 Pro Tempore of the Senate shall serve a term of two (2) years. The
23 other appointee shall serve a term of three (3) years. Thereafter,
24

1 the term of the appointees of the President Pro Tempore shall be for
2 three (3) years.

3 F. The Authority shall be subject to the Oklahoma Open Meeting
4 Act.

5 G. Unless a specific exemption is applicable, the Authority
6 shall be subject to the Oklahoma Open Records Act.

7 H. The Authority shall have the power to adopt administrative
8 rules, and such rulemaking shall be subject to the applicable
9 provisions of the Administrative Procedures Act.

10 I. A majority of the membership of the board of trustees shall
11 be required to conduct business or take any official action.

12 J. The Authority shall meet as often as required in order to
13 perform the duties imposed upon it but shall meet no less often than
14 quarterly during a calendar or fiscal year.

15 K. Within thirty (30) days from the effective date of this act
16 or within thirty (30) days from the date by which all required
17 appointments to the board of trustees have been made, whichever date
18 occurs last, the Authority shall make application to the Internal
19 Revenue Service for recognition of exempt status either for the
20 Authority or an entity created pursuant to the Oklahoma General
21 Corporation Act, the Oklahoma Limited Liability Company Act, the
22 Oklahoma Revised Uniform Partnership Act or such other enactment as
23 may be required in order to provide a method pursuant to which
24 contributions for the purposes described by this act may be made to

1 an entity so that the contributions would be eligible for a
2 deduction as a charitable contribution pursuant to the Internal
3 Revenue Code of 1986, as amended.

4 L. The Authority shall utilize the services of the Office of
5 the State Treasurer to manage the funds under its control with the
6 care, skill, prudence and diligence under the circumstances then
7 prevailing that a prudent person acting in a like capacity and
8 familiar with such matters would use in the conduct of an enterprise
9 of a like character and with like aims and by diversifying the
10 investments of the Authority so as to minimize the risk of large
11 losses, unless under the circumstances it is clearly prudent not to
12 do so.

13 M. The Authority and the State Treasurer may engage the
14 services of professional investment advisors, professional fund
15 managers or such other professional services as may be required in
16 order to perform the duties imposed upon it pursuant to law.

17 N. Except as provided by subsection P of this section, neither
18 the Authority nor the State Treasurer shall expend any principal
19 amount of funds donated pursuant to the provisions of this act, and
20 the Authority may only expend interest income, dividend income,
21 proceeds from the sale of assets under its control, if any, or other
22 forms of earnings based upon the investment of the principal amount
23 forming the corpus of the Oklahoma Education Finance Authority
24 Endowment Fund.

1 O. Earnings as described by subsection N of this section may
2 only be expended for salary increases for classroom teachers
3 employed by a common school district, bonuses for such classroom
4 teachers, textbooks, supplies or other materials used in the
5 classroom for a common school district, grants for capital
6 improvements made by a common school district and training or
7 continuing education programs for classroom teachers.

8 P. Not more than one and five-tenths percent (1.5%) of the
9 earnings from the Oklahoma Education Finance Authority Endowment
10 Fund may be used for the administrative costs of the Authority which
11 shall include any per diem or travel expenses for the members of the
12 board of trustees.

13 Q. For the fiscal years ending June 30, 2017, and June 30,
14 2018, not more than two percent (2%) of the principal of the
15 Oklahoma Education Finance Authority Endowment Fund may be used for
16 the administrative costs of the Authority.

17 R. The Authority shall create and maintain or cause to be
18 created and maintained an Internet website which provides detailed
19 information regarding amounts contributed to the Oklahoma Education
20 Finance Authority Endowment Fund, the expenses of the fund and the
21 operational expenditures of the Authority. Such information shall
22 also be compiled into an annual report and provided to each person
23 or entity making a contribution to the Authority.

24

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 28-102 of Title 70, unless there
3 is created a duplication in numbering, reads as follows:

4 There is hereby created in the State Treasury a revolving fund
5 for the Oklahoma Education Finance Authority to be designated the
6 "Oklahoma Education Finance Authority Endowment Fund". The fund
7 shall be a continuing fund, not subject to fiscal year limitations,
8 and shall consist of all monies received by the Oklahoma Education
9 Finance Authority from contributions made to the Authority or from
10 other lawfully authorized sources including funds from income tax
11 checkoffs authorized pursuant to Section 3 of this act. All monies
12 accruing to the credit in the form of interest income, earnings,
13 dividends or other sources of income not consisting of principal or
14 corpus of the fund are hereby appropriated and may be budgeted and
15 expended by the Oklahoma Education Finance Authority for the purpose
16 of providing funding for common education as described in Section 1
17 of this act. Expenditures from the fund shall be made upon warrants
18 issued by the State Treasurer against claims filed as prescribed by
19 law with the Director of the Office of Management and Enterprise
20 Services for approval and payment.

21 SECTION 3. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 2368.28 of Title 68, unless
23 there is created a duplication in numbering, reads as follows:

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1 A. Each state individual income tax return form for tax years
2 which begin after December 31, 2016, and each state corporate tax
3 return form for tax years beginning after December 31, 2016, shall
4 contain a provision to allow a donation from a tax refund for the
5 benefit of the Oklahoma Education Finance Authority Endowment Fund
6 as follows:

7 "Support of Oklahoma Education Finance Authority Endowment Fund.
8 Check if you wish to donate from your tax refund: () \$2, () \$5,
9 or () \$____."

10 B. Except as otherwise provided for in this section, all monies
11 generated pursuant to subsection A of this section shall be paid to
12 the State Treasurer by the Oklahoma Tax Commission and placed to the
13 credit of the Income Tax Checkoff Revolving Fund for the Support of
14 Oklahoma Education Finance Authority Endowment Fund created in
15 subsection C of this section.

16 C. There is hereby created in the State Treasury a revolving
17 fund for the Oklahoma Education Finance Authority to be designated
18 the "Income Tax Checkoff Revolving Fund for the Support of Oklahoma
19 Education Finance Authority Endowment Fund". The fund shall be a
20 continuing fund, not subject to fiscal year limitations, and shall
21 consist of all monies apportioned to the fund pursuant to the
22 provisions of this section. All monies accruing to the credit of
23 the fund are hereby appropriated and may be budgeted and expended by
24 the Oklahoma Education Finance Authority for the purpose of funding

1 common education in this state consistent with the requirements of
2 Section 1 of this 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 D. If a taxpayer makes a donation pursuant to subsection A of
7 this section in error, such taxpayer may file a claim for refund at
8 any time within three (3) years from the due date of the tax return.
9 Such claims shall be filed pursuant to the provisions of Section
10 2373 of Title 68 of the Oklahoma Statutes. Prior to the
11 apportionment set forth in this section, an amount equal to the
12 total amount of refunds made pursuant to this subsection during any
13 one (1) year shall be deducted from the total donations received
14 pursuant to this section during the following year and such amount
15 deducted shall be paid to the State Treasurer and placed to the
16 credit of the Income Tax Withholding Refund Account.

17 SECTION 4. This act shall become effective November 1, 2016.

18 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
19 April 6, 2016 - DO PASS AS AMENDED
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