

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL 2764

By: Montgomery of the House

and

Ford and Loveless of the
House

COMMITTEE SUBSTITUTE

An Act relating to education; creating the Oklahoma Education Finance Authority; providing for appointments to the board of trustees; prescribing terms of office; providing for applicability of Oklahoma Open Meeting Act; providing for applicability of Oklahoma Open Records Act; providing exception; authorizing adoption of administrative rules; providing for applicability of Administrative Procedures Act; imposing quorum requirement; authorizing meetings; prescribing minimum number of meetings; imposing time limit for certain recognition of exempt status; providing for receipt of contributions; requiring investment of principal according to certain standard; providing for expenditure of earnings; authorizing certain expenditure of principal for certain expenses; limiting expenditure of principal based on fiscal year designations; requiring website; prescribing requirements for certain information to be accessible through website; creating the Oklahoma Education Finance Authority Endowment Fund; providing for sources of income; providing for expenditures; prescribing procedures for expenditures; providing for income tax checkoff for the Oklahoma Education Finance Authority Endowment Fund; prescribing procedures for individuals and corporations; providing for codification; and providing an effective date.

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

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

6 A. There is hereby created the Oklahoma Education Finance
7 Authority.

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

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

13 2. Two persons appointed by the Governor, one of whom shall be
14 a member of a statewide association representing school boards of
15 common school districts and one of whom shall be a member of a
16 statewide association representing classroom teachers;

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

21 4. Two persons appointed by the President Pro Tempore of the
22 Senate, one of whom shall have substantial experience in the
23 financial services industry.
24

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

5 D. One of the appointees initially appointed by the Speaker of
6 the House of Representatives shall serve a term of two (2) years.
7 The other appointee shall serve a term of three (3) years.
8 Thereafter, the term of the appointees of the Speaker of the House
9 of Representatives shall be for three (3) years.

10 E. One of the appointees initially appointed by the President
11 Pro Tempore of the Senate shall serve a term of two (2) years. The
12 other appointee shall serve a term of three (3) years. Thereafter,
13 the term of the appointees of the President Pro Tempore shall be for
14 three (3) years.

15 F. The Authority shall be subject to the Oklahoma Open Meeting
16 Act.

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

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

22 I. A majority of the membership of the board of trustees shall
23 be required to conduct business or take any official action.
24

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

4 K. Within thirty (30) days from the effective date of this act
5 or within thirty (30) days from the date by which all required
6 appointments to the board of trustees have been made, whichever date
7 occurs last, the Authority shall make application to the Internal
8 Revenue Service for recognition of exempt status either for the
9 Authority or an entity created pursuant to the Oklahoma General
10 Corporation Act, the Oklahoma Limited Liability Company Act, the
11 Oklahoma Revised Uniform Partnership Act or such other enactment as
12 may be required in order to provide a method pursuant to which
13 contributions for the purposes described by this act may be made to
14 an entity so that the contributions would be eligible for a
15 deduction as a charitable contribution pursuant to the Internal
16 Revenue Code of 1986, as amended.

17 L. The Authority shall utilize the services of the Office of
18 the State Treasurer to manage the funds under its control with the
19 care, skill, prudence and diligence under the circumstances then
20 prevailing that a prudent person acting in a like capacity and
21 familiar with such matters would use in the conduct of an enterprise
22 of a like character and with like aims and by diversifying the
23 investments of the Authority so as to minimize the risk of large
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1 losses, unless under the circumstances it is clearly prudent not to
2 do so.

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

7 N. Except as provided by subsection P of this section, neither
8 the Authority nor the State Treasurer shall expend any principal
9 amount of funds donated pursuant to the provisions of this act, and
10 the Authority may only expend interest income, dividend income,
11 proceeds from the sale of assets under its control, if any, or other
12 forms of earnings based upon the investment of the principal amount
13 forming the corpus of the Oklahoma Education Finance Authority
14 Endowment Fund.

15 O. Earnings as described by subsection N of this section may
16 only be expended for salary increases for classroom teachers
17 employed by a common school district, bonuses for such classroom
18 teachers, textbooks, supplies or other materials used in the
19 classroom for a common school district, grants for capital
20 improvements made by a common school district and training or
21 continuing education programs for classroom teachers.

22 P. Not more than one and five-tenths percent (1.5%) of the
23 earnings from the Oklahoma Education Finance Authority Endowment
24 Fund may be used for the administrative costs of the Authority which

1 shall include any per diem or travel expenses for the members of the
2 board of trustees.

3 Q. For the fiscal years ending June 30, 2017, and June 30,
4 2018, not more than two percent (2%) of the principal of the
5 Oklahoma Education Finance Authority Endowment Fund may be used for
6 the administrative costs of the Authority.

7 R. The Authority shall create and maintain or cause to be
8 created and maintained an Internet website which provides detailed
9 information regarding amounts contributed to the Oklahoma Education
10 Finance Authority Endowment Fund, the expenses of the fund and the
11 operational expenditures of the Authority. Such information shall
12 also be compiled into an annual report and provided to each person
13 or entity making a contribution to the Authority.

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

17 There is hereby created in the State Treasury a revolving fund
18 for the Oklahoma Education Finance Authority to be designated the
19 "Oklahoma Education Finance Authority Endowment Fund". The fund
20 shall be a continuing fund, not subject to fiscal year limitations,
21 and shall consist of all monies received by the Oklahoma Education
22 Finance Authority from contributions made to the Authority or from
23 other lawfully authorized sources including funds from income tax
24 checkoffs authorized pursuant to Section 3 of this act. All monies

1 accruing to the credit in the form of interest income, earnings,
2 dividends or other sources of income not consisting of principal or
3 corpus of the fund are hereby appropriated and may be budgeted and
4 expended by the Oklahoma Education Finance Authority for the purpose
5 of providing funding for common education as described in Section 1
6 of this act. Expenditures from the fund shall be made upon warrants
7 issued by the State Treasurer against claims filed as prescribed by
8 law with the Director of the Office of Management and Enterprise
9 Services for approval and payment.

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

13 A. Each state individual income tax return form for tax years
14 which begin after December 31, 2016, and each state corporate tax
15 return form for tax years beginning after December 31, 2016, shall
16 contain a provision to allow a donation from a tax refund for the
17 benefit of the Oklahoma Education Finance Authority Endowment Fund
18 as follows:

19 "Support of Oklahoma Education Finance Authority Endowment Fund.
20 Check if you wish to donate from your tax refund: () \$2, () \$5,
21 or () \$_____."

22 B. Except as otherwise provided for in this section, all monies
23 generated pursuant to subsection A of this section shall be paid to
24 the State Treasurer by the Oklahoma Tax Commission and placed to the

1 credit of the Income Tax Checkoff Revolving Fund for the Support of
2 Oklahoma Education Finance Authority Endowment Fund created in
3 subsection C of this section.

4 C. There is hereby created in the State Treasury a revolving
5 fund for the Oklahoma Education Finance Authority to be designated
6 the "Income Tax Checkoff Revolving Fund for the Support of Oklahoma
7 Education Finance Authority Endowment Fund". The fund shall be a
8 continuing fund, not subject to fiscal year limitations, and shall
9 consist of all monies apportioned to the fund pursuant to the
10 provisions of this section. All monies accruing to the credit of
11 the fund are hereby appropriated and may be budgeted and expended by
12 the Oklahoma Education Finance Authority for the purpose of funding
13 common education in this state consistent with the requirements of
14 Section 1 of this act. Expenditures from the fund shall be made
15 upon warrants issued by the State Treasurer against claims filed as
16 prescribed by law with the Director of the Office of Management and
17 Enterprise Services for approval and payment.

18 D. If a taxpayer makes a donation pursuant to subsection A of
19 this section in error, such taxpayer may file a claim for refund at
20 any time within three (3) years from the due date of the tax return.
21 Such claims shall be filed pursuant to the provisions of Section
22 2373 of Title 68 of the Oklahoma Statutes. Prior to the
23 apportionment set forth in this section, an amount equal to the
24 total amount of refunds made pursuant to this subsection during any

1 one (1) year shall be deducted from the total donations received
2 pursuant to this section during the following year and such amount
3 deducted shall be paid to the State Treasurer and placed to the
4 credit of the Income Tax Withholding Refund Account.

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

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