

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 2428

BY: JOHNSON (Glen) and
HAMILTON (James) of the
HOUSE

and

CULLISON of the SENATE

AS INTRODUCED

AN ACT RELATING TO PUBLIC FINANCE; VITALIZING HOUSE
JOINT RESOLUTION NO. ___ OF THE 2ND SESSION OF THE
43RD OKLAHOMA LEGISLATURE WHICH WOULD ADD A NEW
SECTION 43, ARTICLE X OF THE OKLAHOMA CONSTITUTION
REQUIRING AUTHORITY TO SELL CERTAIN CAPITAL
IMPROVEMENT BONDS; PROVIDING THAT CERTAIN MILLAGE
BE COMMITTED TO CERTAIN OBLIGATIONS; CREATING THE
STATE OF OKLAHOMA EDUCATION CAPITAL IMPROVEMENT
BONDS OF 1991 SINKING FUND; SPECIFYING PROCEDURE
FOR PAYMENTS FROM FUND; REQUIRING STATE OF OKLAHOMA
TO IMPOSE A TAX IN CERTAIN CIRCUMSTANCES; PROVIDING
THAT CERTAIN BONDS SHALL HAVE FULL FAITH AND CREDIT
OF THE STATE; AUTHORIZING AUTHORITY TO MAKE CERTAIN
PLEDGES AND AGREEMENTS; PROVIDING PROCEDURES FOR
ISSUANCE OF BONDS; PROVIDING PROCEDURES FOR
REDEMPTION OF BONDS; REQUIRING CERTAIN PAYMENTS
INTO SINKING FUND; AUTHORIZING ISSUANCE OF INTERIM
BONDS; AUTHORIZING CERTAIN ENTITIES TO INVEST IN
CERTAIN BONDS; REQUIRING ATTORNEY GENERAL TO
EXAMINE CERTAIN PROCEEDINGS AND RESOLUTIONS;
REQUIRING ATTORNEY GENERAL TO FILE CERTAIN

CERTIFICATE; ESTABLISHING REQUISITES THEREOF;
REQUIRING REGISTRATION OF BONDS; ESTABLISHING
PROCEDURES FOR INVESTMENT OF PROCEEDS OF BONDS;
AUTHORIZING AUTHORITY TO SEEK APPROVAL OF BONDS
FROM SUPREME COURT OF OKLAHOMA; PROVIDING
PROCEDURES THEREFOR; PROVIDING FOR CODIFICATION;
AND DECLARING AN EMERGENCY.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 801 of Title 62, unless there is created a duplication in numbering, reads as follows:

It is hereby declared to be the purpose of this act to vitalize the constitutional amendment identified as House Joint Resolution No. ___ of the 2nd Session of the 43rd Oklahoma Legislature, if, as and when the same shall be approved by the people of the State of Oklahoma.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 802 of Title 62, unless there is created a duplication in numbering, reads as follows:

The Authority, acting for and on behalf of the State of Oklahoma, shall issue, sell and deliver, as hereinafter provided, "State of Oklahoma Education Capital Improvement Bonds of 1992" in the principal sum of _____ Dollars (\$_____.00). The Authority is hereby authorized and directed to issue, sell and deliver said bonds as designated in this act. All proceeds from the sale of such bonds shall be deposited in the State Treasury to the credit of the "State of Oklahoma Education Capital Improvement Bonds of 1992 Fund" which is hereby created.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 803 of Title 62, unless there is created a duplication in numbering, reads as follows:

It is hereby expressly provided and pledged for the benefit of the purchasers, owners and holders of said bonds that four (4) mills of the tax on each cigarette levied by Section 302 of Title 68 of the Oklahoma Statutes not already committed to other obligations of the State of Oklahoma and two and one-half (2 1/2) mills of the tax on each cigarette levied by Section 302-1 of Title 68 of the Oklahoma Statutes not already committed to other obligations of the State of Oklahoma or so much as may be necessary, shall be devoted irrevocably to the payment and discharge of the interest on, and the principal of, the bonds issued hereunder as the same become due, and said revenues shall be, and hereby are, irrevocably pledged for such purposes.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 804 of Title 62, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a fund to be known as the "State of Oklahoma Education Capital Improvement Bonds of 1992 Sinking Fund" (herein called the "Sinking Fund"), which is hereby irrevocably pledged to the payment of the interest on, and principal of, the bonds issued hereunder, the monies to the credit thereof shall be paid out only in the manner and at the time and places provided for in the resolution or resolutions of the Authority authorizing the issuance of such bonds. Beginning on the first day of the month following the adoption of said constitutional amendment, the Oklahoma Tax Commission, when transmitting to the State Treasurer the monthly collection of the tax on cigarettes, shall also transmit to the State Treasurer a schedule showing the net proceeds of the tax on each package of cigarettes levied by Sections 302 and 302-1 of Title 68 of the Oklahoma Statutes. It

shall be the duty of the State Treasurer, upon receiving said taxes and schedules from the Oklahoma Tax Commission, to deposit in the Sinking Fund such portions of the cigarette tax or taxes hereinabove pledged to the payment of the bonds issued hereunder as may be necessary to assure prompt payment of the interest on, and the principal of, the outstanding State of Oklahoma Education Capital Improvement Bonds of 1992 as the same fall due.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 805 of Title 62, unless there is created a duplication in numbering, reads as follows:

The cigarette tax monies hereinabove pledged to the retirement of the bonds issued hereunder shall constitute the primary revenue dedicated to the payment of the interest on, and the principal of, said bonds, but it is further pledged, for the purchasers, owners and holders of said bonds, that the State of Oklahoma, if and when it shall appear to be necessary hereby devotes irrevocably to the payment of the interest on, and principal of, said bonds. The State of Oklahoma further pledges to the purchasers, owners and holders of said bonds that it will, if and when it shall appear to be necessary, impose and collect a tax and devote the proceeds thereof, or so much thereof as may be necessary, for the purpose of paying the principal of and interest on the bonds issued hereunder as they become due. The bonds issued hereunder, and the interest thereon, shall be general obligations of the State of Oklahoma, and the full faith, credit and resources of the State of Oklahoma are pledged to their payment. The Authority is authorized to incorporate on the face of each of the bonds issued under this act pledges, the same or substantially the same as those made herein. The pledges and covenants so made by the Authority shall constitute the commitment of the State of Oklahoma, and in full good faith, in its sovereign capacity, and shall be binding upon said state and the Legislature, officers, instrumentalities and agents thereof, so long as any of

the interest on, or principal of, said bonds shall remain outstanding and unpaid. The Authority is authorized to make such other equally binding covenants and agreements, not inconsistent with this act or Section 43 of Article X of the Oklahoma Constitution, as it deems to be needful and appropriate to the general purpose of effectuating this act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 806 of Title 62, unless there is created a duplication in numbering, reads as follows:

The bonds may be issued in one or more series and shall be in the form designated by the Oklahoma Capitol Improvement Authority. The Authority may issue serial bonds, term bonds and capital appreciation bonds. Said bonds and the interest thereon shall be payable at such place or places as may be designated by the Oklahoma Capitol Improvement Authority. The bonds shall mature on January 15 of each designated year as designated by the Authority. A schedule of maturity dates showing the years and amounts shall be designated by the Authority for each series issued, provided that the final maturity date shall be no later than twenty-five (25) years after the issuance of the first series of bonds.

The bonds shall bear interest, may be in such denomination or denominations, may be in such form, may carry such registration or conversion privilege, may be executed in such manner, may be payable in such medium of payment at such place or places, as may be provided by resolution or resolutions to be adopted by the Oklahoma Capitol Improvement Authority; provided, that all such bonds maturing on and after ten (10) years from the dates may, at the discretion of the Authority, be made subject to call and redemption, in inverse order of bond numbers, at par or with premium, and accrued interest, with the detailed provisions for such calling and redemption thereof and the amount of the premium, if any, to be fixed by the Authority in the resolution or resolutions for the

issuance of such bonds. Until such time as the Sinking Fund shall be sufficient to retire all outstanding State of Oklahoma Education Capital Improvement Bonds of 1991, including interest thereon, there shall be paid into the Sinking Fund during each fiscal year from the sources hereinabove pledged such amounts as may be necessary to pay the interest and principal as they become due. All bonds issued pursuant to this act shall have all the qualities and incidents of negotiable paper, and neither said bonds nor the interest earned thereon shall be subject to taxation by the State of Oklahoma or any county, municipality or political subdivision thereof.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 807 of Title 62, unless there is created a duplication in numbering, reads as follows:

The Authority is authorized to issue one or more interim bonds representative of the bonds so sold, which interim bonds may be in any denomination, shall have all the qualities and be secured by all the covenants and pledges made to secure the bonds so sold, but said interim bonds shall represent the bonded debt only until such time as the definitive bonds are printed, executed and delivered to the purchaser thereof. No tender of any such interim bonds shall be valid until the expiration of the period of contestability provided in this act. Simultaneously with delivery of the definitive bonds, any such interim bonds shall be surrendered for cancellation and canceled by the State Treasurer of Oklahoma.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 808 of Title 62, unless there is created a duplication in numbering, reads as follows:

Any bank, trust or insurance company organized under the laws of Oklahoma may invest its capital, surplus and reserve funds and other funds under its control in bonds issued under the provisions of this act. The officers having charge of any fund of the State of Oklahoma, or any department, agency, or institution thereof of any

sinking fund of any county, city, town, township, board of education or school district may invest such funds in bonds issued under the provisions hereof. Such bonds shall also be approved as collateral security for the deposit of any public funds and for the investment of trust funds.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 809 of Title 62, unless there is created a duplication in numbering, reads as follows:

Within ten (10) days after the sale or sales of said bonds, the Attorney General of the State of Oklahoma shall examine all of the proceedings of the Authority and all resolutions passed and actions taken by it in connection with the authorization and issuance and sale of such bonds, and shall, if he finds such bond proceedings and sale to be constitutional and lawful, execute his certificate and file the same of record in the office of the Secretary of State of the State of Oklahoma, which said certificate shall read substantially as follows:

"I have examined all proceedings had in connection with the issuance of the State of Oklahoma Education Capital Improvement Bonds of 1992 Series _____, in the aggregate principal amount of _____, dated _____, authorized and sold pursuant to Section 43, Article X, Constitution of the State of Oklahoma, and laws of the State of Oklahoma enacted pursuant thereto, and find said proceedings and sale to be constitutional, lawful and regular in all particulars and that said bonds will be valid legal general obligations of the State of Oklahoma. Unless suit thereon shall be brought in the Supreme Court of the State of Oklahoma within thirty (30) days from the date of this certificate, said bonds shall be incontestable for all purposes.

Date _____

Attorney General of the State of Oklahoma"

A facsimile of such Attorney General's certificate shall appear on each bond so issued. The Supreme Court of Oklahoma is hereby vested with exclusive jurisdiction over any litigation involving the validity of any bonds issued under this act. All bonds shall bear the signature of the Governor and the Secretary of State and shall bear the certificate required by Section 29, Article X of the Constitution of the State of Oklahoma. Such bonds shall also be registered by the Treasurer of the State of Oklahoma and a statement of such registration shall appear on the back of each bond. The Authority may, by resolution, prescribe that the seal of the State of Oklahoma, or the seals of any of the officers thereof, and any or all signatures required to appear on the bonds or coupons, with the exception of either the Governor's or the Secretary of State's signature on the bonds, may be facsimile seals and signatures.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 810 of Title 62, unless there is created a duplication in numbering, reads as follows:

The bonds and interest coupons, if applicable, attached thereto shall be delivered to the purchaser thereof only upon payment of par and accrued interest to the date of delivery thereof, together with any premium bid, if any. The proceeds of the sale of said bonds shall be deposited in the State Treasury of the State of Oklahoma, in the State of Oklahoma Education Capital Improvement Bonds of 1992 Fund, where they shall remain subject to disposition as provided for by the Oklahoma State Legislature, provided that the State Treasurer of the State of Oklahoma, when so directed by any agency to which a portion of such fund has been appropriated as to the amount appropriated to such agency, shall invest the amounts designated by such agency for the period or periods of time specified by such agency as stipulated in Section 11 of this act, and provided further that all such investments of said monies must be so made that the same shall mature in time to enable the State of Oklahoma to issue

warrants for payment of the valid indebtedness incurred for the purpose for which said bonds are issued, when the said indebtedness has been incurred pursuant to legislative authority. It shall be the duty of each agency receiving an appropriation to promptly certify to the State Treasurer the amount of all sums not needed for payment of construction and other legal expenditures payable from the fund to meet the payment schedule, and upon receipt of such certification the State Treasurer shall forthwith make the aforementioned investment. All interest received by the State Treasurer upon the above-mentioned securities shall be deposited in the State of Oklahoma Education Capital Improvement Bonds of 1992 Sinking Fund.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 811 of Title 62, unless there is created a duplication in numbering, reads as follows:

The State Treasurer shall invest all Sinking Fund monies in direct obligations of the United States of America or in certificates of deposits from banks in the State of Oklahoma acceptable as depositories by the State Depository Board, when such certificate of deposits are secured by acceptable collateral and yield as much or more than direct obligations of the United States of America, to mature in time to meet the principal and interest payments on the bonds, which earnings shall be deposited in the State of Oklahoma Education Capital Improvement Bonds of 1992 Sinking Fund.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 812 of Title 62, unless there is created a duplication in numbering, reads as follows:

The Authority is authorized in its discretion to file an application with the Supreme Court of Oklahoma for the approval of the bonds issued hereunder, and exclusive original jurisdiction is hereby conferred upon the Supreme Court to hear and determine each

such application. It shall be the duty of the Court to give such applications precedence over the other business of the Court and to consider and pass upon such applications and any protests which may be filed thereto as speedily as possible. Notice of the hearing on each application shall be given by notice published in a newspaper of general circulation in the state that on a day named the Authority will ask the Court to hear its application and approve the bonds. Such notice shall inform all persons interested that they may file protests against the issuance of the bonds and be present at the hearing and contest the legality thereof. Such notice shall be published one time not less than ten (10) days prior to the date named for the hearing and the hearing may be adjourned from time to time in the discretion of the Court. If the Court shall be satisfied that the bonds have been properly authorized in accordance with this act and Section 43, Article X of the Constitution of the State of Oklahoma and that when issued they will constitute valid obligations in accordance with their terms, the Court shall render its written opinion approving the bonds and shall fix the time within which a petition for rehearing may be filed. The decision of the Court shall be a judicial determination of the validity of the bonds, shall be conclusive as to the State of Oklahoma, its officers, agents and instrumentalities, and thereafter the bonds so approved and the revenues pledged to their payment shall be incontestable in any Court in the State of Oklahoma.

SECTION 13. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.