

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1586

By: Hutchison

AS INTRODUCED

An Act relating to recreation and tourism

development; creating the Oklahoma Recreation and Development Act; providing short title; providing definitions; creating the Oklahoma Recreation and Development Revolving Fund; providing sources of monies for revolving fund; providing for investment of monies in fund; establishing guidelines for expenditures of fund; providing certain limitations of expenditures; limiting accumulations in fund; providing for transfer of certain excess monies; providing for certain expenditures; providing for promulgation of certain rules; creating the Oklahoma Recreation and Development Revolving Fund Advisory Board; providing for technical assistance and support; providing for membership; providing for chairperson; providing for promulgation of certain rules; providing for meetings; providing for certain report; establishing powers and duties of advisory board; providing for designation of certain interest and earnings of monies; providing for unexpended funds; amending 68 O.S. 1991, Section 504, as last amended by Section 1, Chapter 241, O.S.L. 1994 (68 O.S. Supp. 1994, Section 504), which relates to apportionment of gasoline tax;

modifying apportionment of gasoline tax; amending 68 O.S. 1991, Section 504.1, which relates to apportionment of diesel fuel tax; modifying apportionment of diesel fuel tax; amending 68 O.S. 1991, Section 1353, which relates to the purpose and apportionment of sales tax revenues; modifying purpose and use of sales taxes; providing for deposit of certain sales tax collections in the Oklahoma Recreation and Development Revolving Fund or the General Revenue Fund; amending 68 O.S. 1991, Section 2104.1, which relates to valuation of recreational vehicles; modifying apportionment of excise tax collected on the sale or transfer of recreational vehicles; amending 62 O.S. 1991, Section 203, as last amended by Section 9, Chapter 329, O.S.L. 1994 (62 O.S. Supp. 1994, Section 203), which relates to apportionment of monies; providing exception from apportioning certain investment income in General Revenue Fund; providing for codification; providing an effective date; 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 1901 of Title 74, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Recreation and Development Act."

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1902 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. As used in this act:

1. "Board" means the Oklahoma Recreation and Development Revolving Fund Advisory Board as established in Section 5 of this act;

2. "Department" means the Oklahoma Tourism and Recreation Department;

3. "Commission" means the Oklahoma Tourism and Recreation Commission which is the governing board of the Oklahoma Tourism and Recreation Department;

4. "Local government" means a county, city, village, town or any authority within this state composed of counties, cities, villages, towns, or any combination thereof, which authority is legally constituted to provide for public recreation and tourism;

5. "Sponsor" means a state agency, a nonprofit organization, a local government, or an Indian tribe which is eligible for funding or other assistance through this act;

6. "State agency" means a department, commission or authority of this state which is legally constituted to provide for public recreation and tourism;

7. "Recipient" means the beneficiary of a project, not necessarily a sponsor. A recipient shall be a public entity, tribe or private entity. If the recipient is a private entity, project lands and improvements shall be leased or otherwise dedicated to a public purpose for not less than twenty-five (25) years;

8. "Nonprofit organization" means a corporation, trust or association which is duly recognized as an exempt organization under the Internal Revenue Code and which is legally constituted to provide public facility support;

9. "Indian tribe" means a Native American government, council or nation which is legally constituted to provide for public recreation and tourism;

10. "Total expenditures" means the amounts actually expended from the fund as authorized by this act;

11. "Fund" means the Oklahoma Recreation and Development Revolving Fund;

12. "Project(s)" means any scope of work eligible for funding under this act; and

13. "Oklahoma Tourism and Recreation Assistance Center" also referred to as "OTRAC" is an institute authorized under this act, functioning through the Division of Planning and Development of the Oklahoma Tourism and Recreation Department, and established as the repository and coordinating entity for recreation and tourism research and developmental assistance within this state.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1903 of Title 74, unless there is created a duplication in numbering, reads as follows:

There shall be created in the State Treasury a revolving fund to be designated the "Oklahoma Recreation and Development Revolving Fund." The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies designated for the fund by statute, monies the Legislature may appropriate or transfer to the fund, monies contributed for the fund from any other sources public or private, and income from investment of the fund. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma Tourism and Recreation Commission, with advice from the Oklahoma Recreation and Development Revolving Fund Advisory Board, as provided by Section 4 of this act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1904 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Income from investment of the monies of the Oklahoma Recreation and Development Revolving Fund may be expended for the following purposes:

1. The development of public recreation and tourism facilities;
2. The major maintenance and retrofitting of public recreation and tourism facilities for compliance with federal accessibility requirements;
3. The preparation of planning and research documents for public recreation and tourism facilities or products;
4. The protection or preservation of lands or rights in land for public recreational and tourism use or for environmental importance or scenic beauty;
5. The implementation of special demonstration projects which show merit for recreation and tourism, but do not fit explicitly into another category of eligibility;
6. The development and operation of Oklahoma Tourism and Recreation Assistance Center (OTRAC) which will serve as the focal point for recreation and tourism research and development within Oklahoma; and
7. Costs of administering the fund which shall not exceed in any fiscal year fifteen percent (15%) of the investment income of the preceding fiscal year. However, for the first year beginning July 1, 1995, an estimated amount of investment income shall be used to determine the allowable level of administrative costs.

B. In any fiscal year, an amount not to exceed sixty-six and two-thirds percent (66 2/3%) of the available monies in the Oklahoma Recreation and Development Revolving Fund, exclusive of investment income, may be expended in the following fiscal year for the purposes set forth in paragraphs 1, 2, 3, 4, 5 and 6 of subsection A

of this section. Whenever the balance in the revolving fund, exclusive of investment income, exceeds One Hundred Million Dollars (\$100,000,000.00), the State Treasurer shall transfer the excess monies to the General Revenue Fund of the State Treasury.

C. Expenditures authorized in subsections A and B of this section may be made in the form of grants to sponsors legally constituted to provide public tourism or recreation, provided:

1. The grant is used for a purpose authorized by subsection A of this section; and

2. The grant is matched by the recipient entity to the extent of at least twenty-five percent (25%) of the total cost of the project, of which at least sixty percent (60%) of the match is in cash. A waiver of the match requirements is allowable with recommendation of the Oklahoma Recreation and Development Revolving Fund Advisory Board and approval of the Oklahoma Tourism and Recreation Commission. Funds provided to OTRAC for operation shall not require a match.

D. The total expenditures from the Recreation and Development Revolving Fund in any fiscal year for the development of public recreation and tourism facilities, planning studies and other eligible projects shall be allotted in accordance with rules developed by the Board and adopted by the Commission. In no case shall greater than seventy-five percent (75%) or less than sixty-five percent (65%) of the available funds be distributed for grants as eligible in paragraphs 1, 2, 3 and 4 of subsection A of this section.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1905 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Recreation and Development Revolving Fund Advisory Board shall be established within the Oklahoma Tourism and Recreation Department. The Division of Planning and Development

within the Department shall provide technical assistance and support to the Board in performing its duties and functions.

B. The Board shall consist of seven (7) members. The members shall include the Director of the Oklahoma Tourism and Recreation Department, or a member of the Oklahoma Tourism and Recreation Commission, as determined by the Commission; the Director of the Oklahoma Historical Society or a designee; the Director of the Department of Wildlife Conservation or a designee; the State Director of the Oklahoma Small Business Development Center; the President and Chief Executive Officer of the Oklahoma Finance Authorities; the President of the Oklahoma Recreation and Parks Society; and one member selected by the general membership of the Oklahoma Recreation and Parks Society.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1906 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Recreation and Development Revolving Fund Advisory Board shall elect a chairperson and establish proposed administrative procedures and rules for fund disbursement and for operation of OTRAC to be adopted by the Oklahoma Tourism and Recreation Commission in accordance with the Administrative Procedures Act. The business which the Board may perform shall be conducted at a public meeting of the Board held in compliance with the Open Meeting Act. The Board shall meet not less than once every quarter of the year and shall record its proceedings.

B. On or before February 14 of each year, the Board shall report to the Commission detailing the operations of the Board for the preceding one-year period.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1907 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Recreation and Development Revolving Fund Advisory Board shall determine and shall recommend to the Oklahoma Tourism and Recreation Commission projects within the state that should be performed with money from the Oklahoma Recreation and Development Revolving Fund, and shall submit to the Commission in February of each year a list of those projects that the Board has determined should be performed with money from the revolving fund, compiled in order of priority.

B. The list shall be accompanied by estimates of total costs for the proposed projects.

C. The Board shall supply with each list a statement of the guidelines used in listing and assigning the priority of the proposed projects.

D. The Commission shall review the recommendations of the Board and shall determine the list of projects funded.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1908 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. All interest and earnings on money appropriated to or otherwise deposited in the Oklahoma Recreation and Development Revolving Fund shall be designated as proceeds of the revolving fund which are available for distribution on projects.

B. Upon completion of a project funded with proceeds of the revolving fund, any unexpended balance remaining after completion of the project for which the money was authorized shall be deposited in the revolving fund and may be allocated for other projects.

SECTION 9. AMENDATORY 68 O.S. 1991, Section 504, as last amended by Section 1, Chapter 241, O.S.L. 1994 (68 O.S. Supp. 1994, Section 504), is amended to read as follows:

Section 504. The excise tax of four cents (\$0.04) per gallon on gasoline that is levied by Section 502 of this title and all penalties and interest thereon collected by the Tax Commission under

such levy shall be apportioned monthly and used for the following purposes:

1. Three percent (3%) shall be paid by the Tax Commission to the State Treasurer and ~~by him~~ placed to the credit of the General Revenue Fund of the State Treasury;

2. ~~Seventy percent (70%)~~ Sixty-nine percent (69%) shall be deposited in the State Treasury to be apportioned as follows:

- a. the first Eight Hundred Fifty Thousand Dollars (\$850,000.00) collected each fiscal year shall be deposited into the Public Transit Revolving Fund, created in Section 4031 of Title 69 of the Oklahoma Statutes,
- b. the second Eight Hundred Fifty Thousand Dollars (\$850,000.00) collected each fiscal year shall be deposited into the Railroad Maintenance Revolving Fund and shall be used by the Department of Transportation to contract railroad passenger services, including but not limited to a route linking stations in Oklahoma and Tulsa Counties with other primary points in the national railroad passenger system and to provide necessary facility, signaling, and track improvements for those contracted services, and
- c. any remaining amount of the apportionment shall be deposited into the State Transportation Fund;

3. One percent (1%) shall be deposited to the credit of the Oklahoma Recreation and Development Revolving Fund as created in Section 3 of this act;

4. Five percent (5%) shall be transmitted by the Tax Commission to the treasurers of the various incorporated cities and towns of the state in the percentage which the population, as shown by the last Federal Census or the most recent annual estimate provided by the U.S. Bureau of the Census, bears to the total population of all

the incorporated cities and towns in this state. Such funds shall be expended for the construction, repair and maintenance of the streets and alleys of the incorporated cities and towns of this state; and

~~4.~~ 5. Twenty-two percent (22%) shall be transmitted by the Tax Commission to the various counties of the state, on the following basis, to wit:

- a. forty percent (40%) of such sum shall be distributed to the various counties in the proportion which the county road mileage of each county bears to the entire state road mileage as certified by the State Transportation Commission, and
- b. the remaining sixty percent (60%) of such sum shall be distributed to the various counties on the basis which the population and area of each county bears to the total population and area of the state. The population shall be as shown by the last Federal Census or the most recent annual estimate provided by the U.S. Bureau of the Census.

The funds so transmitted shall be sent to the respective county treasurers, and by them deposited in the county highway fund of their respective counties, to be used by the county commissioners for the purpose of constructing and maintaining county or township highways and permanent bridges in such counties. No part of such fund shall be used for any purpose other than the construction and maintenance of county or township highways and permanent bridges in the county receiving the fund. The said funds received by any county shall not thereafter be diverted to any other county of the state, but such funds shall be expended only under the direction and control of the board of county commissioners in the county to which said funds are apportioned. If any part of said funds is diverted for any purpose other than is provided herein, the county

commissioners shall be liable on their bond for double the amount of money so diverted. Provided, that where any state or county highway has been laid out over a road already constructed in any county by the use of money raised from county or township bond issues for the purpose either alone or by the use of federal or state aid, or both, the county commissioners may set aside out of the funds apportioned to that county, as provided herein, an amount of money equal to the value of any part thereof, of the interest of such county or township, or both, in and to such highway or highways, bridge or bridges, so constituting a part of the State Highway System, which amount of money shall be considered by the excise board in reducing the levy for the purpose of retiring the bonded indebtedness and interest thereon of the county, or township, and shall be used for investment or deposit in the same manner as provided by law for the disposition of other sinking fund money.

Each county shall use not less than fifty percent (50%) of the monies apportioned to it for the construction, improvement or repair of highways under the provisions of this article, for the purpose of participating in or sponsoring federal projects for the building or maintenance of roads, bridges or culverts; and it shall be the mandatory duty of the county excise board to appropriate such funds for such purpose.

SECTION 10. AMENDATORY 68 O.S. 1991, Section 504.1, is amended to read as follows:

Section 504.1 The purpose of Section 501 et seq. of this title is to provide revenue for general governmental functions of state government and for the construction and maintenance of state and county highways and bridges. The tax, including penalties and interest collected under the levy in Section 502.1 of this title, shall be apportioned monthly for use as follows:

1. An amount equal to the revenue, including penalties and interest thereon, accruing from four cents (\$0.04) per gallon of the

five and one-half cents (\$0.055) per gallon collected of the tax levied by Section 502.1 of this title, shall be apportioned monthly and used for the following purposes:

- (a) Three percent (3%) shall be paid by the Tax Commission to the State Treasurer and ~~by him~~ placed to the credit of the General Revenue Fund of the State Treasury.
- (b) ~~Seventy-two and three-fourths percent (72 3/4%)~~  
Seventy-two percent (72%) shall be deposited in the State Treasury to the credit of the State Transportation Fund.
- (c) Three-fourths of one percent (0.75%) shall be deposited to the credit of the Oklahoma Recreation and Development Revolving Fund as created in Section 3 of this act.
- (d) Twenty-four and one-fourth percent (24 1/4%) shall be transmitted by the Tax Commission to various counties of the state, in the percentage which the population and area of each county bears to the population and area of the entire state. The population shall be as shown by the last Federal Census or the most recent annual estimate provided by the U.S. Bureau of the Census. The funds so transmitted shall be sent to the respective county treasurers, and by them deposited in the county highway fund of their respective counties to be used by the county commissioners for the purpose of constructing and maintaining county or township highways and permanent bridges in such counties. No part of such fund shall be used for any purpose other than the construction and maintenance of county or township highways and permanent bridges in the county receiving the fund. The said funds received by any county shall not thereafter be diverted to any other

county of the state, but such funds shall be expended only under the direction and control of the board of county commissioners in the county to which said funds are apportioned. If any part of said funds is diverted for any purpose other than is provided herein, the county commissioners shall be liable on their bond for double the amount of money so diverted. Provided that where any state or county highway has been laid out over a road already constructed in any county by the use of money raised from county or township bonds issued for the purpose either alone or by the use of federal or state aid, or both, the county commissioners may set aside out of the funds apportioned to that county, as provided herein, an amount of money equal to the value of any part thereof, of the interest of such county or township or both, in and to such highway or highways, bridge or bridges so constituting a part of the state highway system, which amount of money shall be considered by the excise board in reducing the levy for the purpose of retiring the bonded indebtedness and interest thereon of the county or township, and shall be used for investment or deposit in the same manner as provided by law for the disposition of other sinking fund money.

2. An amount equal to the revenue, including penalties and interest thereon, accruing from one cent (\$0.01) per gallon of the five and one-half cents (\$0.055) per gallon collected of the tax levied by Section 502.1 of this title, shall be apportioned monthly and shall be deposited in the State Treasury to the credit of the State Transportation Fund.

3. An amount equal to the revenue, including penalties and interest thereon, accruing from one-half cent (\$.005) per gallon of the five and one-half cents (\$.055) per gallon collected of the tax levied by Section 502.1 of this title, shall be apportioned monthly and distributed as follows:

Forty percent (40%) of such sum shall be distributed to the various counties in that proportion which the county road mileage of each county bears to the entire state road mileage as certified by the Transportation Commission, and the remaining sixty percent (60%) of such sum shall be distributed to the various counties on the basis which the population and area of each county bears to the total population and area of the state. The population shall be as shown by the last Federal Census or the most recent annual estimate provided by the U.S. Bureau of the Census. The funds so transmitted shall be sent to the respective county treasurers and by them deposited in the county highway fund of the respective counties, to be used by the board of county commissioners for the purpose of constructing and maintaining county or township highways and permanent bridges in such counties. In all counties where the county excise board of any county may find it necessary, because of insufficient revenue to maintain city and county government of such county out of the general fund, after a levy of ten (10) mills has been made for any fiscal year, the county excise board may appropriate out of any funds apportioned to such county under this act, an amount sufficient to pay the salaries of the county commissioners of such county for such fiscal year.

It shall be unlawful for the board of county commissioners to use such funds for any other purpose, and any commissioner violating any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed Five Hundred Dollars (\$500.00) and imprisonment in the county jail not to exceed six (6) months, and ~~said~~ the commissioner shall be

liable on ~~his~~ the official bond of the commissioner for any of ~~said~~ the funds expended in violation of the provisions of this act.

SECTION 11. AMENDATORY 68 O.S. 1991, Section 1353, is amended to read as follows:

Section 1353. Purpose of Article - Apportionment of Revenues.

It is hereby declared to be the purpose of the Oklahoma Sales Tax Code to provide funds for the financing of the ~~program~~ programs provided for by the Oklahoma Social Security Act and the Oklahoma Recreation and Development Act, and to provide revenues for the support of the functions of the state government of Oklahoma, and for this purpose it is hereby expressly provided that the revenues derived pursuant to the provisions of the Oklahoma Sales Tax Code shall be paid to the State Treasurer to be placed to the credit of the General Revenue Fund to be paid out pursuant to direct appropriation by the Legislature, except as provided in Section 12 of this act.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1353.1 of Title 68, unless there is created a duplication in numbering, reads as follows:

All collections from the tax levied pursuant to Section 1354 of Title 68 of the Oklahoma Statutes and which are derived from businesses identified by the Standard Industrial Classification Code number 5941, also known as sporting goods stores and bicycle shops, and Standard Industrial Classification Code numbers 5735 and 5736, also known as record and prerecorded tape stores and musical instrument stores, shall be paid monthly to the State Treasurer who shall deposit the collections in the Oklahoma Recreation and Development Revolving Fund established by the Oklahoma Recreation and Development Act for the purposes identified in the act or to the General Revenue Fund of the State Treasury as required by Section 4 of this act.

SECTION 13. AMENDATORY 68 O.S. 1991, Section 2104.1, is amended to read as follows:

Section 2104.1 ~~(a)~~ A. The value of any recreational vehicle for the purposes of the vehicle excise tax levied by the Vehicle Excise Tax Code, ~~Chapter 361, Oklahoma Session Laws 1963 (Article 21 of Title 68, O.S.Supp.1969)~~ Sections 2101 through 2110 of this title, shall be determined as of the time the person applying for a certificate of title thereto obtained either legal ownership or possession of the recreational vehicle, which shall be the actual date of the sale or other transfer of legal ownership, which date shall be shown by the assignment on the certificate of title, or in the case of a new recreational vehicle, on the manufacturer's certificate or statement of origin, and by the assignment on the application for registration, required to be furnished by the new recreational vehicle dealer for use by the purchaser. The value of a new recreational vehicle for vehicle excise tax purposes shall be the manufacturer's price of such a recreational vehicle delivered at the factory. The value of a used recreational vehicle shall be sixty-five percent (65%) of the manufacturer's price of such recreational vehicle delivered at the factory for subsequent transfers for the first year and for the second year and sixty-five percent (65%) of the value of the previous year so fixed for each successive year for which such recreational vehicle is registered and licensed in this or any other state, until such recreational vehicle reaches a minimum value of Two Hundred Fifty Dollars (\$250.00).

~~(b)~~ B. The excise tax collected on the sale or transfer of recreational vehicles shall be ~~apportioned in accordance with the provisions of Section 2102 of Section 2, Chapter 361, Oklahoma Session Laws 1963, as renumbered by Section 3, Chapter 215, O.S.L. 1965 (68 O.S.Supp.1969, Section 2102)~~ paid monthly to the State Treasurer for deposit in the Oklahoma Recreation and Development

Revolving Fund or to the General Revenue Fund as required by Section 4 of this act.

SECTION 14. AMENDATORY 62 O.S. 1991, Section 203, as last amended by Section 9, Chapter 329, O.S.L. 1994 (62 O.S. Supp. 1994, Section 203), is amended to read as follows:

Section 203. A. Except as otherwise provided by subsection B of this section, all monies that may come into the State Treasury, pursuant to the provisions of Section 201 et seq. of this title, together with all amounts that may be received by the State Treasurer as investment income or as interest on average daily bank balances, including investment income or interest on deposits from funds deposited to the credit of the Constitutional Reserve Fund created pursuant to Section 23 of Article 10 of the Oklahoma Constitution, shall be apportioned and credited to the General Revenue Fund for the current year.

B. The provisions of subsection A of this section shall not apply to:

1. Interest received on deposits from funds under the control of the Commissioners of the Land Office;

2. Funds in the Department of Human Services Federal Disallowance Fund;

3. Interest received on deposits from funds under the control of the Santa Claus Commission; ~~and~~

4. The Risk Management Revolving Fund; and

5. Investment income from funds in the Oklahoma Recreation and Development Revolving Fund.

SECTION 15. This act shall become effective July 1, 1995.

SECTION 16. 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.

45-1-5149

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