

ENROLLED SENATE  
BILL NO. 1271

By: Herbert of the Senate

and

Corn of the House

An Act relating to state government; amending 62 O.S. 2001, Section 203, which relates to apportionment of monies; providing certain exception; amending 74 O.S. 2001, Sections 85.42, as amended by Section 28 of Enrolled House Bill No. 2924 of the 2nd Session of the 48th Oklahoma Legislature, 500.18, as amended by Section 29 of Enrolled House Bill No. 2924 of the 2nd Session of the 48th Oklahoma Legislature, 1811.1, 1811.1a, 1813.3 and 1847.1, as amended by Section 33 of Enrolled House Bill No. 2924 of the 2nd Session of the 48th Oklahoma Legislature, which relate to annual report of acquisitions, State Travel Reimbursement Act, Oklahoma Tourism and Recreation Department Revolving Fund, Golf Course Operations Revolving Fund, jurisdiction of park rangers, state parks, lakes and recreation areas; authorizing the Oklahoma Tourism and Recreation Department to enter into certain contracts; requiring certain provisions be satisfied; providing for certain reimbursement; conforming language; adding sources of monies included in certain revolving fund; modifying expenditures from fund; adding source of money included in certain revolving fund; authorizing additional compensation for certain employees; allowing the Oklahoma Tourism and Recreation Department to implement a pay incentive plan not to exceed certain percentage; deleting obsolete language; authorizing the Department to transfer real and personal property to certain entities; authorizing the Department or Commission to sell certain real estate and personal property in certain county; requiring property sold by the Oklahoma Tourism and Recreation Department to be subject to certain easements and records; providing for certain exception; requiring the Department to utilize certain procedure to sell real estate and personal property; requiring the development of certain land under certain circumstances; authorizing the Department to issue notes and bonds and pledge certain revenues; requiring the Oklahoma Tourism and Recreation Commission to promulgate certain rules; requiring the Department to submit certain documentation to the Attorney General; specifying the bond issued by the Department shall not constitute a debt to the State of Oklahoma; requiring the Oklahoma

Tourism and Recreation Commission to be subject to certain coverage; amending 73 O.S. 2001, Section 178, as amended by Section 1 of Enrolled House Bill No. 1997 of the 2nd Session of the 48th Oklahoma Legislature, which relates to funding for certain properties and facilities of the Oklahoma Tourism and Recreation Department; requiring the Oklahoma Capitol Improvement Authority to provide certain funding; modifying certain cost; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 62 O.S. 2001, 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~~ X 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;
4. The Risk Management Revolving Fund;
5. Investment income and interest received from funds in the Quartz Mountain Revolving Fund from insurance claims;
6. The Drinking Water Treatment Revolving Loan Account and the Drinking Water Treatment Loan Administrative Fund;
7. The Wastewater Facility Construction Revolving Loan Account and Wastewater Facility Construction Revolving Loan Administrative Fund;
8. The State Infrastructure Bank Revolving Fund; ~~and~~
9. The Nursing Facility Quality of Care Fund;

10. The Oklahoma Tourism and Recreation Department Revolving Fund effective July 1, 2003; and

11. The Golf Course Operations Revolving Fund effective July 1, 2003.

SECTION 2. AMENDATORY 74 O.S. 2001, Section 85.42, as amended by Section 28 of Enrolled House Bill No. 2924 of the 2nd Session of the 48th Oklahoma Legislature, is amended to read as follows:

Section 85.42 A. Except as otherwise provided for in this section, any agency, whether or not such agency is subject to the Oklahoma Central Purchasing Act, Section 85.1 et seq. of this title, is prohibited from entering into a sole source contract or a contract for professional services with or for the services of any person, who has terminated employment with or who has been terminated by that agency for one (1) year after the termination date of the employee from the agency. The provisions of this subsection shall not prohibit an agency from hiring or rehiring such person as a state employee.

B. Each contract entered into by any person or firm with the State of Oklahoma shall include an affidavit certifying that no person who has been involved in any manner in the development of that contract while employed by the State of Oklahoma shall be employed to fulfill any of the services provided for under said contract. This subsection shall not preclude faculty and staff of the institutions within The State System of Higher Education from negotiating and participating in research grants and educational contracts. Nor shall this subsection apply to personnel of the Capital Resources Division of the Oklahoma Department of Commerce who contract to provide services to the Oklahoma Capital Investment Board.

C. As used in this section, person is defined as any state official or employee of a department, board, bureau, commission, agency, trusteeship, authority, council, committee, trust, school district, fair board, court, executive office, advisory group, task force, study group, supported in whole or in part by public funds or entrusted with the expenditure of public funds or administering or operating public property, and all committees, or subcommittees thereof, judges, justices, and state legislators.

D. An agency may enter into a sole source contract or a contract for professional services at any time with a person who is a qualified interpreter for the deaf.

E. The Department of Transportation, Oklahoma Water Resources Board, Department of Environmental Quality, Oklahoma Tourism and Recreation Department, the Oklahoma Transportation Authority and the ~~State~~ Oklahoma Department of Agriculture, Food, and Forestry may enter into a contract for professional services at any time with a person who has retired from state service, provided the provisions specified in subsection B of this section are satisfied.

SECTION 3. AMENDATORY 74 O.S. 2001, Section 500.18, as amended by Section 29 of Enrolled House Bill No. 2924 of the 2nd Session of the 48th Oklahoma Legislature, is amended to read as follows:

Section 500.18 A. Except for members of the Legislature, the Governor and the Lieutenant Governor, provisions of Sections 500.1 through 500.18 of this title shall be mandatory for all officials and employees of all departments, boards, commissions and institutions of the state, regardless of the provisions of any other act of the Legislature, except as provided by this section. The enactment of any measure in the future providing for travel reimbursement of state officers and employees on the basis of "actual and necessary" expenses or in any other manner inconsistent with Sections 500.1 through 500.18 of this title shall be deemed to provide for reimbursement in accordance with Sections 500.1 through 500.18 of this title unless a contrary intent is explicitly expressed in this section. Sections 500.1 through 500.18 of this title shall not apply, however, to travel reimbursements made by political subdivisions of this state, except as otherwise provided by law.

B. The agencies listed below are authorized certain exceptions and/or exemptions to the provisions of Sections 500.1 through 500.18 of this title to the extent specified:

1. State Oklahoma Department of Agriculture, Food, and Forestry:

The actual and reasonable expenses of travel and subsistence in pursuing and developing markets for Oklahoma agricultural products incurred by the Commissioner, Deputy Commissioner and such employees designated by the State Board of Agriculture within the marketing development programs of the State Oklahoma Department of Agriculture, Food, and Forestry shall be reimbursed to the employee incurring such expenses. Reimbursement of such expenses shall be in accordance with rules adopted by the Board. Expenses claimed shall, prior to reimbursement, be reviewed by the Board at a regular meeting and individually approved or disapproved.

2. Wheat Utilization, Research and Market Development Commission:

The actual and reasonable expenses of travel, lodging and subsistence in pursuing and developing markets for Oklahoma wheat and wheat products incurred by the Commission, staff and such persons authorized by the Commission shall be reimbursed to the person incurring such expenses. Expenses of wheat trade officials on wheat trade missions from foreign countries and from other states can be reimbursed to the person previously authorized by the Commission to incur the expense. No actual and reasonable expenses shall be paid except for time spent working with wheat trade officials on wheat trade missions. Reimbursement of such expenses shall be made in accordance with rules adopted by the Commission. Expenses claimed shall, prior to reimbursement, be reviewed by the Commission at each regular meeting and individually approved or disapproved.

3. Department of Public Safety:

When traveling with the Governor or at the Governor's request, personnel assigned by the Commissioner for executive security and pilots on executive assignment shall be allowed their actual and necessary traveling expenses, upon claims approved by the Commissioner.

4. Department of Corrections:

The Department of Corrections shall be exempt from limitations of reimbursement for rented automobiles, as set forth in Section 500.5 of ~~Title 74 of the Oklahoma Statutes~~ this title, when the rental is by a Correctional Officer or Transportation Officer for the limited purpose of transporting inmates. Reimbursement for the expense shall be on the basis of actual cost.

5. Oklahoma Tourism and Recreation Department:

The Oklahoma Tourism and Recreation Commission and Department staff who promote in-state and out-of-state business for Oklahoma's state-operated or state-owned parks, lodges, and golf courses and the tourism and recreation industry, may be reimbursed for the actual and necessary expense of travel, subsistence and entertainment for this purpose. The Director of the Oklahoma Tourism and Recreation Department may reimburse the Publisher of Oklahoma Today magazine and its staff for expenses for meals and other entertainment in order to gain advertising and promotion for Oklahoma Today magazine. The Oklahoma Tourism and Recreation Department may reimburse the Director of the Office of the Oklahoma Film and Music ~~Office~~ Commission and staff for the actual and necessary expenses for meals and other entertainment in order to promote the film and music industries in this state. Reimbursement of all actual and necessary expenses shall be in accordance with rules adopted by the Oklahoma Tourism and Recreation Commission.

6. Oklahoma Department of Commerce:

- a. The actual and necessary expenses incurred by the Director and other employees of the Department authorized by the Director for the purpose of business recruitment shall be reimbursed. Reimbursement of expenses shall be in accordance with rules adopted by the Director of the Oklahoma Department of Commerce. Expenses claimed shall, prior to reimbursement, be reviewed by the Director and individually approved or disapproved.
- b. The Department, at the discretion of the Director, may charter aircraft for the purposes of carrying out its duties and responsibilities related to business recruitment and performing the duties of the Director. The cost of such charter shall be exempt from the provisions of Section 500.6 of this title. Claims filed with the Office of State Finance shall bear the following certification:

The best interests of the citizens of Oklahoma were better served in that conventional ground transportation was not practical or feasible for this trip, aircraft from the Department of Public Safety were not available for this trip, and no other claim has been or will be filed as a payment for the cost of transportation in connection with this trip.

7. Department of Central Services:

The actual and necessary expenses of travel and subsistence incurred by the Director, any state employee approved by his or her appointing authority, or state officials, for travel outside the state in performance of duties related to bond financing shall be reimbursed to the employee or state official incurring such expenses. Reimbursement for lodging expenses shall be supported by three telephone bids from hotels within a reasonable distance of the activity for which the travel was approved.

8. Oklahoma Futures:

The actual and necessary expenses incurred by the members of Oklahoma Futures in the performance of their duties shall be reimbursed to the members incurring such expenses. Reimbursement of all actual and necessary expenses shall be in accordance with rules adopted by Oklahoma Futures.

9. Oklahoma Development Finance Authority:

The actual and necessary expenses incurred by the members and employees of the Oklahoma Development Finance Authority in the performance of their duties shall be reimbursed to the person incurring such expenses. Reimbursement of all actual and necessary expenses shall be in accordance with the bylaws of the Authority.

10. Oklahoma Center for the Advancement of Science and Technology:

The actual and necessary expenses incurred by the members and employees of the Oklahoma Center for the Advancement of Science and Technology in the performance of their duties shall be reimbursed to the person incurring such expenses. Reimbursement of all actual and necessary expenses shall be in accordance with the bylaws of the Center.

11. Center for International Trade Development:

The actual and necessary expenses of travel, lodging and subsistence incurred by the Director and authorized employees of the Center for International Trade Development for performance of their duties for the purpose of business recruitment and assistance shall be reimbursed to the person incurring such expenses. Reimbursement of such expenses shall be in accordance with the rules adopted by the Director of the Center for International Trade Development. Expenses claimed shall be reviewed and individually approved or disapproved, prior to reimbursement, first by the Director, and

finally by either the Vice President, Business and Finance of Oklahoma State University or the President of Oklahoma State University.

12. Oklahoma State Bureau of Investigation:

The actual and necessary expenses incurred by the Director and other employees of the Bureau authorized by the Director as a result of conducting investigations shall be reimbursed to each such employee incurring the expenses. Reimbursement of the expenses shall be in accordance with rules adopted by the Director of the Oklahoma State Bureau of Investigation. Prior to reimbursement, expenses claimed shall be reviewed by the Director and individually approved or disapproved.

13. Department of Human Services:

- a. The actual and necessary expenses of travel, lodging and subsistence incurred by employees of the Legal Division in the performance of their duties for the purpose of representing the Department of Human Services or any of its officials, employees, institutions or hospitals at any proceeding, including depositions, held before any court, administrative body or representative thereof, shall be reimbursed to the employee incurring such expenses. Expenses claimed shall be approved by the General Counsel and the Director of Human Services prior to reimbursement.
- b. The Department, at the discretion of the Director, may charter aircraft when determined by the Director such charter would be more practical or less expensive than normal modes of transportation and when aircraft of the Department of Public Safety are unavailable. The costs of such charter shall be exempt from the provisions of Section 500.6 of this title.

14. Oklahoma Health Care Authority:

The actual and necessary expenses of travel, lodging and subsistence incurred by employees of the Legal Division in the performance of their duties for the purpose of representing the Authority or any of its officials or employees, at any proceeding, including depositions, held before any court, administrative body or representative thereof, shall be reimbursed to the employee incurring such expenses. Expenses claimed shall be approved by the Administrator prior to reimbursement.

15. Oklahoma State Bureau of Narcotics and Dangerous Drugs Control:

The actual and necessary expenses incurred by the Director and other employees of the Bureau authorized by the Director as a result of conducting investigations shall be reimbursed to each employee incurring the expenses. Reimbursement of the expenses shall be in accordance with rules adopted by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. Prior to

reimbursement, expenses claimed shall be reviewed by the Director and individually approved or disapproved.

16. University Hospitals:

The actual and necessary expenses of travel, lodging and subsistence incurred by employees of the Legal Office in the performance of their duties for the purpose of representing the University Hospitals or any of its officials, employees, institutions or hospitals at any proceeding, including depositions, held before any court, administrative body or representative thereof, shall be reimbursed to the employee incurring such expenses. Expenses shall be approved by the Chief Executive Officer of the University Hospitals or by the University Hospitals Authority.

17. Oklahoma Historical Society:

The actual and necessary expenses of travel, subsistence and entertainment incurred by the Executive Director, Deputy Director and any employees designated by the Executive Committee of the Oklahoma Historical Society Board of Directors in pursuing and developing programs and projects for the preservation and marketing of Oklahoma history shall be reimbursed to the person incurring the expenses. Reimbursement of expenses shall be in accordance with rules adopted by the Oklahoma Historical Society Board of Directors. Prior to reimbursement, expenses claimed shall be reviewed by the Executive Committee at a regularly scheduled meeting and each claim shall be individually approved or disapproved.

18. The Oklahoma Department of Mines:

The actual and necessary expenses of travel, lodging and subsistence incurred by employees of the Department in the performance of their duties for the purpose of representing the Department or any of its officials or employees, at any proceeding, hearing or meeting with federal agencies, boards, commissions, congressional representatives, congressional committees or staff, shall be reimbursed to the employee incurring such expenses. Expenses claimed shall be approved by the Executive Director prior to reimbursement.

19. The Office of Attorney General:

The actual and necessary expenses of travel, lodging and subsistence incurred by its employees in the performance of their duties for the purpose of representing the state, the Legislature, any state board, agency or commission, or any employee or official of the state entitled to representation, at any proceeding, including depositions, held before any court, administrative body or any representative thereof, and the actual and necessary expenses incurred by employees as a result of conducting investigations shall be reimbursed to the employee incurring the expenses. The expenses shall be approved by the Attorney General prior to reimbursement.

20. District Attorneys Council:

The actual and necessary expenses incurred by each district attorney and other employees of the district attorney authorized by the district attorney as a result of conducting investigations shall be reimbursed to each employee incurring the expenses. Reimbursement of the expenses shall be in accordance with rules adopted by the District Attorneys Council. Prior to reimbursement, expenses claimed shall be reviewed by the Council and individually approved or disapproved.

21. The Department of Securities:

The actual and necessary expenses of travel, lodging and subsistence incurred by the Administrator and other employees of the Department of Securities in the performance of their duties for the purpose of representing the Department of Securities, at any proceeding, including depositions, held before any court, administrative body or any representative thereof, conducting on-site examinations, or conducting investigations, shall be reimbursed to each employee incurring the expenses. The expenses shall be approved by the Administrator of the Department of Securities prior to reimbursement.

22. Corporation Commission:

The actual and necessary travel expenses incurred by the staff of the Public Utility Division as a result of conducting audits and/or reviews of utility service providers shall be reimbursed to each such employee incurring the expense. Reimbursement of the expenses shall be as set forth in procedures established by the appointing authority.

23. The Department of Human Services:

Employees of the Department of Human Services shall be reimbursed for their actual and necessary expenses of travel, lodging and subsistence incurred in the performance of their duties for the purpose of escorting and transporting children or adults in the care or custody of the Department:

- a. for out-of-state visitation, care, treatment and placement of a child welfare client,
- b. for out-of-state treatment for or placement of an adult protective services client,
- c. for out-of-state treatment for or placement of a resident of a state resource center, or
- d. for out-of-state treatment for or placement of an individual with a developmental disability who is living in the community in community residential services.

Expenses claimed shall be approved by the appropriate Division Administrator or Associate Director prior to reimbursement.

24. The Banking Department:

The actual and necessary expenses of travel and lodging incurred by the Commissioner and other employees of the Banking Department in the performance of their duties for the Banking Department shall be paid or reimbursed by the Banking Department to each employee incurring the expenses. The expenses shall be approved by the Banking Commissioner prior to payment or reimbursement.

C. The agencies listed in subsection B of this section shall be required to report annually the actual expenses excepted or exempted from Sections 500.1 through 500.18 of this title to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives. The report shall be submitted no later than the first day of September following the end of each fiscal year.

SECTION 4. AMENDATORY 74 O.S. 2001, Section 1811.1, is amended to read as follows:

Section 1811.1 There is hereby created in the State Treasury a revolving fund for the Oklahoma Tourism and Recreation Department to be designated the "Oklahoma Tourism and Recreation Department Revolving Fund". The fund shall consist of all monies that are received by the Oklahoma Tourism and Recreation Department, pursuant to provisions of Sections 1810, 1811 and 1813 of this title, monies derived from the sale or conveyance of real property under the jurisdiction of the Commission and interest attributable to investment of money in the fund, but not including appropriated funds. The revolving fund shall be a continuing fund not subject to fiscal year limitations and shall be under the administrative direction of the Oklahoma Tourism and Recreation Department. Expenditures from the fund created by this section shall be for the operating expenses of the Division of Travel and Tourism, for publication and promotion of "Oklahoma Today" magazine and for expenses of operation and major maintenance of the Division of Parks and the Division of Lodges, for purchase of real property, and shall be made pursuant to the laws of this state and the statutes relating to said Department, and without legislative appropriation. Warrants for expenditures from said fund shall be drawn by the State Treasurer, based on claims signed by an authorized employee of the Department and approved for payment by the Director of State Finance.

SECTION 5. AMENDATORY 74 O.S. 2001, Section 1811.1a, is amended to read as follows:

Section 1811.1a There is hereby created in the State Treasury a revolving fund for the Oklahoma Tourism and Recreation Department, to be designated the "Golf Course Operations Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Department, from all golf course admission fees, green fees, ~~or~~ other monies received directly from the operations of golf courses located at state lodges and state parks, and interest attributable to investment of money in the fund. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department for the exclusive purpose of direct and

indirect expenses of operation and maintenance of such golf courses, for capital improvements at such golf courses, and for the purchase and maintenance of golf course equipment. Expenditures from said 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 6. AMENDATORY 74 O.S. 2001, Section 1813.3, is amended to read as follows:

Section 1813.3 A. The Oklahoma Today Magazine is hereby authorized to sell advertising; provided, that all such advertising shall be approved by the appropriate division director prior to acceptance for publication.

B. One additional full-time-equivalent position is authorized to Oklahoma Today magazine for the purpose of managing the advertising program authorized by this section.

C. In addition to the regular salary, any employee of the Oklahoma Today Magazine who obtains advertising, bulk subscription, newsstand, or ancillary product sales, for Oklahoma Today Magazine, at the discretion of the Director of the Oklahoma Department of Tourism and Recreation, may be awarded additional compensation in the form of a commission on net ~~advertising~~ sales by the employee. The commission shall not exceed twenty-five percent (25%), with the commission percentage to be determined by the Executive Director. In no case shall the additional compensation, when combined with an employee's salary, exceed ninety-five percent (95%) of the salary of the Executive Director. This commission payment shall be paid monthly, based on collected revenues from sales by the employee.

D. The sale of advertising and negotiation of rates for the advertising shall not be subject to the Public Competitive Bidding Act of 1974 and the Administrative Procedures Act.

E. Oklahoma Today Magazine and articles, and photographs produced by or for Oklahoma Today Magazine shall be available for public inspection during Oklahoma Tourism and Recreation Department business hours; however, the Department shall not be required to provide copies or allow copying of the magazine, articles, or photographs other than as the Department provides copies of Oklahoma Today Magazine for newsstand and subscription sales.

SECTION 7. AMENDATORY 74 O.S. 2001, Section 1847.1, as amended by Section 33 of Enrolled House Bill No. 2924 of the 2nd Session of the 48th Oklahoma Legislature, is amended to read as follows:

Section 1847.1 A. The Oklahoma Tourism and Recreation Commission is granted the additional powers herein given it for the purpose of operating, maintaining, extending and improving state parks in the State of Oklahoma, including specifically all parks and park and recreational properties now owned or leased by the state or by the Commission together with all additions which may be made thereto and all additional park and recreational properties which may be acquired hereafter by the Commission and by the state.

The Commission shall have and is hereby authorized to exercise the following powers, rights and privileges:

1. To have the exclusive possession and control of, and to control, operate and maintain for the benefit of the people of the State of Oklahoma all state parks and all lands and other properties now or hereafter owned or leased by the state or Commission for park or recreational purposes;

2. To acquire by purchase, lease, gift, or in any other manner and to maintain, use and operate any and all property, real, personal or mixed, necessary or convenient to the exercise of the powers, rights, privileges and functions conferred upon it by this act. Title to all such property shall be vested in the State of Oklahoma, although such property is sometimes herein referred to as property "of the Commission". The power of condemnation herein granted shall be exercised in the manner provided by the general laws of the state for the condemnation of property by the state;

3. To acquire real property by condemnation only when the Attorney General or other counsel deems it an appropriate means of clearing title from willing or unavailable sellers;

4. Subject to the provisions of this act, from time to time to lease, without restriction as to term, any property which said Commission shall determine advisable to more fully carry into effect the duties and powers of said Commission;

5. To acquire, construct, extend, improve, maintain and operate any and all facilities of all kinds which in the judgment of the Commission will provide recreational or other facilities for the benefit of the public, or which are necessary or convenient to the exercise of the powers of the Commission;

6. To sue and be sued;

7. To adopt, use and alter an official seal;

8. To make bylaws for the management and regulation of its affairs;

9. To appoint officers, agents and employees and prescribe their duties and to fix their compensation;

10. To make such contracts and execute such instruments as in the judgment of the Commission are necessary or convenient to the exercise of the powers conferred upon it by this act;

11. To prescribe and enforce rules for the use of all recreational and other facilities and properties of the Commission, including the restriction or prohibition of the use of firearms, the inspection of boats, the issuance of permits for the operation of watercraft of all kinds, the charging and collection of fees for the inspection and for the operation of such craft, prescribing the type, style, location and equipment of all wharves, docks and anchorages, pavilions, restaurants and other structures or buildings

which may be constructed along shores or upon the waters of any body of water or upon other property controlled by the Commission and providing for the licensing, inspection and supervision of same, and granting and imposing charges for permits and for all commercial uses or purposes to which any of the properties of the Commission or any structures or buildings located on property of the Commission may be used;

12. To prescribe and collect reasonable rates and fees pursuant to the provisions of this section for the services, facilities and commodities rendered by all property of the Commission.

- a. The Commission may establish rates for rooms at the state lodges and cabins, for recreational activities, for recreational vehicles and camping sites, and for community facilities under control of the Commission. The method whereby the rates are determined shall be promulgated pursuant to Article I of the Administrative Procedures Act. At least twenty (20) days prior to the adoption or approval of any rate changes by the Commission, the Department shall submit a copy of such proposed rates, for informational purposes, to the Governor, Speaker of the House of Representatives and President Pro Tempore of the Senate. Any change in such rates during the year or when the Legislature is not in session shall be reported in writing to the Governor, Speaker of the House of Representatives and President Pro Tempore of the Senate within five (5) business days of such Commission action.
- b. The Commission may establish maximum charges for all activities at state-owned golf courses. The charges may vary among the different golf courses according to the practices of the golf industry. The method whereby the maximum charges are determined shall be in accordance with rules promulgated pursuant to Article I of the Administrative Procedures Act. At least twenty (20) days prior to the adoption or approval of any rate changes by the Commission, the Oklahoma Tourism and Recreation Department shall submit a copy of such proposed charges, for informational purposes, to the Governor, Speaker of the House of Representatives and President Pro Tempore of the Senate.
- c. Fees shall be promulgated pursuant to Article I of the Administrative Procedures Act;

13. The Commission may erect cabins and support facilities on any land under its control. The Commission may operate or lease cabins, lodges, restaurants and other facilities and improvements for the public making use of the recreational facilities surrounding such improvements;

14. To develop and implement a pay incentive plan for employees of the Division of Parks, Division of State Lodges, Golf Operations

~~and Oklahoma Today Magazine. Such incentive pay shall be considered as bonus pay, not to be included in an employee's base salary, and shall be based on customer service and improved financial conditions of state lodges if gross revenues for fiscal year 1994 and each fiscal year thereafter from sales and products and services at the state lodges exceeds fiscal year 1993 gross revenues. The total amount of all pay incentives shall be limited to no more than the difference between the net increases from the previous fiscal year. Such pay incentive plan shall not be implemented before April 1, 1994 the goals and eligibility established by the Commission on an annual basis. Such pay incentive shall not exceed ten percent (10%) of each eligible employee's salary. Such pay incentive shall not exceed the total change in improved financial performance for each facility over the previous fiscal year. Such compensation shall not be subject to the requirements of Section 840-2.17 of this title. The Commission shall promulgate rules for the implementation of such plan;~~

~~15. To develop a pay incentive plan for employees of the Division of State Parks and Oklahoma Today Magazine. Such incentive pay shall be considered as bonus pay, not to be included in an employee's base salary, and shall be based on customer service and improved financial conditions of state parks for park employees or Oklahoma Today Magazine for employees of the magazine, if gross revenues for fiscal year 1996 and each year thereafter from sales and products and services at the state parks, for park employees, or Oklahoma Today Magazine, for the magazine employees, exceed fiscal year 1995 gross revenue. Provided, the incentive pay for employees of the golf operations shall be based only on customer service and improved financial conditions of the golf operations. The financial conditions of golf operations shall not be considered in the award of incentive pay to employees in other areas of the Division of State Parks. The total amount of all pay incentives shall be limited to no more than the difference between the net increases from the previous fiscal year. Such pay incentive plan shall not be implemented before April 1, 1996. The Commission shall promulgate rules for the implementation of the plan;~~

~~16. To authorize any division to sell advertising in any of the division's publications, on division property on which advertising is sold in the tourism industry, or on its website, provided that such advertising shall be approved by the Division Director or designee prior to acceptance for publication. The sale of advertising and negotiation of rates for the advertising shall not be subject to the Central Purchasing Act and the Administrative Procedures Act; and~~

~~17. 16. To authorize the Executive Director to enter into leases, grant easements and execute such instruments as in the judgment of the Commission are necessary or convenient to the exercise of those powers and duties of the Commission pursuant to the Oklahoma Tourism and Recreation Act; provided, the Executive Director shall provide a monthly report to the Commission of actions taken as a result of such delegation.~~

B. All fees, licenses and other charges shall be posted in a convenient place in each park. Everyone using any of the facilities

of said park shall be charged the same fees, licenses and every other charge except:

1. Residents of this state sixty-two (62) years of age and over and their spouses, and nonresidents sixty-two (62) years of age and over and their spouses. The Commission may promulgate rules establishing different fees for residents and nonresidents specified in this paragraph. Fees may reflect the seasonal usage of the parks and facilities and/or promotional purposes and goals. Identification may be established by presentation of the state driver's license, state license for identification only, birth certificate of such persons or any other form of identification authorized by the Commission;

2. Individuals who have been certified as totally disabled under state or federal law and their spouses will be entitled to a fifty percent (50%) reduction which shall apply to recreation use facilities;

3. Children's groups, volunteer groups as specified by the Commission, or governmental entities that provide beneficial services at the facility for which the fee may be reduced or waived. The failure to collect such fees, licenses and other charges shall subject the employees of the Commission to a fine of Twenty-five Dollars (\$25.00) for each and every violation; and

4. Special discount rates as authorized in paragraphs 1 and 2 of this subsection may be waived for subject individuals who are members of a group being provided a special group rate in accordance with Section 1834 of this title.

C. The Commission shall have the authority to implement an incentive program to improve private concession maintenance within properties under the jurisdiction of the Commission. The intent of the incentive program is to encourage concessionaires to make or maintain the improvements that they own or operate throughout the duration of their ownership or leasehold interest. The Commission shall promulgate rules for the implementation of the program.

D. The Oklahoma Tourism and Recreation Commission shall have authority to transfer to any city, county, or other agency of government, which is a willing recipient, its interest in real and personal property owned by the State of Oklahoma or the Oklahoma Tourism and Recreation Department and operated and maintained under the jurisdiction of the Commission. Such real estate transfers shall not be subject to Sections 456.7 or 129.4 of this title or any other provision of state law relative to disposition of real estate. Such real estate transfers shall be subject to the following provisions:

1. The city, county or other agency recipient shall agree to accept the interest transferred by the state, accept responsibility for the property, and use the real estate for public recreation purposes in accordance with the Land and Water Conservation Fund Act of 1965, Public Law 88-578, 78 STAT 897;

2. The city, county or other agency recipient shall not dispose of the property unless substitute property is provided that is equivalent in value and usefulness;

3. The Commission shall transfer the property to the recipient by quit claim deed or other instrument as may be appropriate;

4. The consideration for the property transfer shall be the agreement of the recipient to continue public recreation use of the property and the recipient's agreement to manage the property without operating subsidy from the Oklahoma Tourism and Recreation Department or Commission;

5. The real estate transfer shall be subject to all existing easements and reservations of record; and

6. The Oklahoma Tourism and Recreation Commission shall provide written notice to the President Pro Tempore of the Senate and the Speaker of the House of Representatives detailing any such proposed transfer agreement to be entered into pursuant to the provisions of this section thirty (30) days prior to the first day of the legislative session. The Commission shall approve such proposed transfer during the legislative session to be effective at the beginning of the next fiscal year, contingent upon the Legislature's approval of the proposed transfer.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1852.2 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Tourism and Recreation Commission shall have authority to sell real estate owned by the State of Oklahoma or the Oklahoma Tourism and Recreation Department that is surplus to its use and under the jurisdiction of the Commission located within McCurtain County and situated within the Cedar Creek area of Hochatown State Park.

B. The Commission and Department shall utilize the procedure identified in Section 129.4 of Title 74 of the Oklahoma Statutes for the sale; provided, however, all monies received from the sale of this property, except those monies necessary to pay the expenses incurred pursuant to the sale, shall be deposited in the Oklahoma Tourism and Recreation Department Revolving Fund 215 ("215 Fund"). Revenue derived from such real estate sale deposited to the fund shall be utilized for the benefit of Hochatown State Park or Beavers Bend State Park. Such real estate sale shall not be subject to the provisions of Section 456.7 of Title 74 of the Oklahoma Statutes.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1852.3 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Tourism and Recreation Commission is authorized to sell real estate and personal property owned or acquired by the State of Oklahoma or the Oklahoma Tourism and Recreation Department, now or in the future, and under the jurisdiction of the Commission

located within Marshall County and situated within Texoma State Park.

B. The sale of real estate and personal property authorized pursuant to subsection A of this section shall be subject to all existing easements and reservations of record. The Commission or Department shall transfer any interests held, including but not limited to licenses, operating permits and leasehold interests to a subsequent purchaser.

C. The Commission and Department shall utilize the procedure pursuant to Section 129.4 of Title 74 of the Oklahoma Statutes for such sale; provided, however, all monies received from the sale of these properties, except those monies necessary to pay the expenses incurred pursuant to the sale, shall be deposited in the Oklahoma Tourism and Recreation Department Revolving Fund 215 ("215 Fund"). Revenue derived from such real estate and personal property sale deposited to the fund shall be utilized for the benefit of the state park system. Such real estate and personal property sale shall not be subject to the provisions of Section 456.7 of Title 74 of the Oklahoma Statutes.

D. For every developed acre of land containing recreational vehicle campgrounds and other campgrounds that is sold pursuant to this section, an equivalent amount of replacement land shall be selected by the Oklahoma Tourism and Recreation Department in a suitable area at Lake Texoma or in the vicinity, and developed to provide comparable outdoor public recreation facilities for operation as part of the Oklahoma state park system.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1881 of Title 74, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Tourism and Recreation Commission is hereby authorized to:

1. Make and issue notes and bonds, and pledge revenues of the Commission subject to the Oklahoma Bond Oversight and Reform Act. The Commission revenue notes and bonds issued under the provisions of this act shall not at any time be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any political subdivision. Such notes and bonds shall be payable solely from the revenues of the Department and such other funds as may be provided by law for such payments and shall contain on their face a statement to that effect; and

2. Arrange for guaranties or insurance of its notes and bonds by the federal government or by any private insurer, and to pay any premiums therefor.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1882 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Tourism and Recreation Commission may provide by resolution, from time to time, for the issuance of revenue notes and bonds for its lawful purposes, in such amount or amounts as are necessary, incidental, or convenient to the exercise of powers, rights, privileges, and functions conferred upon it by this act or other law. The principal of and interest on any indebtedness shall be payable solely from the revenues of the Department and such other funds as may be provided by law for such payments. The Commission may provide for credit enhancement as additional security or liquidity for its notes and bonds and enter into such agreements as may be necessary or appropriate to provide for the repayment of any funds advanced by the provider of any such credit enhancement including the payment of any fees and expenses incurred in connection therewith. The notes and bonds of each issue shall bear interest at fixed or variable rates and shall bear an average interest rate comparable to other revenue notes and bonds of like credit quality and maturity as prescribed by the State Bond Advisor, and shall mature at such time or times not exceeding thirty (30) years from the date or dates of issue, as may be determined by the Commission. The notes and bonds may be made redeemable before maturity at the option of the Commission, at such time or times and at such price or prices and pursuant to such terms and conditions as may be fixed by the Commission prior to the issuance of the notes and bonds. The Commission shall determine the form of the notes and bonds and the manner of execution thereof, and shall fix the denominations of the notes and bonds and the place or places of payment of principal and interest. If any officer whose signature or facsimile of whose signature appears on any notes and bonds shall cease to hold the office before the delivery of the notes and bonds, the signature or the facsimile shall nevertheless be valid and sufficient for all purposes, the same as if the person had remained in the office until delivery. All notes and bonds issued pursuant to the provisions of this act shall have all the qualities and incidences of negotiable instruments subject to the laws of this state. The Commission may sell the notes and bonds in such amounts and in such manner, either at public or private sale, and for such price, as it may determine to be in the best interests of the state. If the notes and bonds are not sold by competitive bid, the sale must be approved by the State Bond Advisor.

B. The Commission may, by resolution, provide for the issuance of notes and bonds for the purpose of refunding notes and bonds then outstanding, including the payment of any redemption premium, any interest accrued to the date of redemption of the notes and bonds, and for incurring additional indebtedness for its lawful purposes. The issuance of such notes and bonds shall be governed by the provisions of this act and the Oklahoma Bond Oversight and Reform Act.

C. The Commission shall promulgate rules governing the issuance of revenue bonds authorized pursuant to this act.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1883 of Title 74, unless there is created a duplication in numbering, reads as follows:

Before any bond shall be issued and delivered by the Oklahoma Tourism and Recreation Commission, a certified copy of the proceedings for the issuance thereof, together with any other information which the Attorney General of the State of Oklahoma may require shall be submitted to the Attorney General. If the Attorney General shall find that the notes and bonds have been issued in accordance with the law, the Attorney General shall approve the notes and bonds and execute a certificate to that effect. The Attorney General shall file the certificates in the Office of the State Auditor and Inspector, and the certificates shall be recorded in a record kept for that purpose. All notes and bonds approved by the Attorney General, and issued in accordance with the approved proceedings, shall be valid and binding obligations of the Commission and shall be incontestable from and after the date of such approval.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1884 of Title 74, unless there is created a duplication in numbering, reads as follows:

Revenue notes and bonds of the Oklahoma Tourism and Recreation Commission issued pursuant to the provisions of this act shall not constitute a debt of the state or of any political subdivision thereof, or a pledge of the full faith and credit of the state, or of any political subdivision thereof, but such notes and bonds shall be payable solely from the funds provided therefor. The forms of the notes and bonds so issued shall contain on the face thereof a statement to the effect that neither the state nor the Commission shall be obligated to pay the same or the interest thereon except from the revenues of the Department pledged to the payment of such notes and bonds and that neither the faith and credit nor the taxing power of the state or any political subdivision thereof is pledged, or may hereafter be pledged, to the payment of the principal of or interest on the notes and bonds. The notes and bonds so issued shall be exempt from taxation by the State of Oklahoma and any political subdivision thereof, including the income therefrom, and any gain from the sale thereof.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1885 of Title 74, unless there is created a duplication in numbering, reads as follows:

Notes and bonds issued pursuant to provisions of this act are hereby made securities in which all public officers and public boards, agencies and instrumentalities of the state and its political subdivisions, all banks, trust companies, trust and loan associations, investment companies, and others carrying on a banking business, and all insurance companies and insurance associations, and others carrying on an insurance business, may legally and properly invest. These notes and bonds are also approved as collateral security for the deposit of any public funds and for the investment of trust funds.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1886 of Title 74, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Tourism and Recreation Commission shall be subject to blanket bond coverage as provided in Sections 85.26 through 85.31 of Title 74 of the Oklahoma Statutes; provided, the Commission shall be authorized to purchase increased amounts of fidelity bond coverage for those employees deemed necessary by the Commission. When the amount listed in Section 85.29 of Title 74 of the Oklahoma Statutes is deemed inadequate, the cost of increased coverage shall be borne by the Department.

SECTION 16. AMENDATORY 73 O.S. 2001, Section 178, as amended by Section 1 of Enrolled House Bill No. 1997 of the 2nd Session of the 48th Oklahoma Legislature, is amended to read as follows:

Section 178. A. The Oklahoma Capitol Improvement Authority shall provide for the funding for repairs, refurbishments and improvements to Oklahoma Tourism and Recreation Department properties and facilities, and may hold title to or a leasehold interest in the facilities until such time as the indebtedness created pursuant to this section shall be retired or defeased and shall lease such facilities to the Department. Upon the retirement of the indebtedness created pursuant to this section, the title to the facilities and improvements thereon shall be transferred from the Oklahoma Capitol Improvement Authority to the Oklahoma Tourism and Recreation Department. Project costs are allocated in the following amounts:

| <u>PARK</u>  | <u>AMOUNT</u>        |
|--|----------------------|
| Langley (below dam)<br>9 hole golf course  | \$1,285,240.00       |
| Clubhouse/maintenance barn   | 154,000.00           |
| 15 RV super sites  | 132,000.00           |
| Sewer, water, and electric utility systems   | 134,000.00           |
| Contingency  | 100,000.00           |
| 1 comfort station with shower  | 60,500.00            |
| Roads and Parking  | 75,000.00            |
| Eucha<br>Comfort station with shower and<br>sewer system   | 55,000.00            |
| Natural Falls - Colcord<br>Community Building, RV Rally Area,<br>and sewer system  | 238,700.00           |
| Dripping Springs - Okmulgee<br>Comfort station with showers, <u>25 RV sites,</u><br><u>Sewer System, and Visitor center/park store</u> | <del>60,500.00</del> |
| <del>25 RV sites</del>   | <del>82,500.00</del> |

|   |                      |
|---|----------------------|
| <del>Sewer system</del>                                     | <del>57,200.00</del> |
| <del>Visitor center/park store</del>                        | <del>55,000.00</del> |
|   | <u>255,200.00</u>    |
| Texoma  |                      |
| 18 hole championship golf course                            | 3,025,000.00         |
| Clubhouse with grill  | 445,500.00           |
| Roman Nose  |                      |
| 9 hole golf course expansion                                | 767,525.00           |
| Welcome Center  |                      |
| Thackerville  | 575,000.00           |
| Welcome Center  |                      |
| Catoosa   | 500,000.00           |
| Welcome Center  |                      |
| Midwest City  | 500,000.00           |
| Quartz Mountain Resort Park                                 |                      |
| Lodge - 100 Rooms with banquet facilities and meeting rooms | <u>3,500,000.00</u>  |
| TOTAL   | \$11,802,665.00      |

B. For the purpose of paying the costs of the projects authorized in subsection A of this section, the Authority is hereby authorized to borrow monies on the credit of the income and revenues to be derived from the leasing of such projects and, in anticipation of the collection of such income and revenues, to issue negotiable or competitive bonds not to exceed the sum of Twelve Million Six Hundred Eighty-five Thousand Dollars (\$12,685,000.00) as may be determined by the Authority. It is the intent of the Legislature to appropriate to the Oklahoma Tourism and Recreation Department sufficient monies to make rental payments for purposes of retiring the debt created pursuant to this section.

C. The Authority may issue the bonds in one or more series and in conjunction with other issues of the Authority.

D. Insofar as they are not in conflict with the provisions of this section, the provisions of Section 151 et seq. of this title shall apply to this section.

E. The Oklahoma Tourism and Recreation Commission may revise such charges directly associated with such improvements from time to time whenever necessary to maximize revenues so as to contribute to the payment of principal of and interest on such bonds. All revenues generated pursuant to the provisions of this section not otherwise committed for other lawful purposes shall be placed in the 1995 Tourism Bond Revolving Fund, as created in Section 179 of this title.

F. All interest earned on any reserve funds created by such bonds held by the State Treasurer, as collected, shall be paid into the General Revenue Fund.

G. If any of the lodge facilities involved are sold to private entities, at any time in the future, prior to the payment of the bonds issued by virtue of this act, the amount received shall first be used to pay any unredeemed bonds for such facilities.

H. Provided that the security for these bonds is not adversely affected, certain project cost allocations, as identified in this section, may be used for the following expanded purpose:

Langley - contingency of One Hundred Thousand Dollars (\$100,000.00) may also be used to fund any overage amount associated with the projects listed in this section for Langley State Park.

SECTION 17. 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.

Passed the Senate the 20th day of May, 2002.

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Presiding Officer of the Senate

Passed the House of Representatives the 22nd day of May, 2002.

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Presiding Officer of the House  
of Representatives

