ENGROSSED HOUSE
BILL NO. 2431

By: Piatt, Hyman and Hilliard of the House

and

Crutchfield of the Senate

An Act relating to tourism and recreation; providing certain employees at Murray State Park or Lake Murray Lodge with employment opportunities with a successor operator; requiring employees to be qualified for employment; directing the Oklahoma Tourism and Recreation Department to develop a severance package for employees affected by certain closures; creating the Oklahoma State Park Trust Fund; making the Oklahoma Tourism and Recreation Commission trustees of the Trust Fund; providing for utilization of Trust Fund; requiring the Commission to give certain priority for funding; specifying sources of monies for the Trust Fund; limiting expenditure of Trust Fund monies; directing the Commission to utilize oil and gas royalty payments for certain purposes; requiring the Commission to give priority for funding to certain state parks; establishing duties of the Commission as trustees of the Trust Fund; authorizing the Commission to procure liability insurance; directing the Commission to utilize certain investment policy; requiring all investments of the Trust Fund to comply with certain guidelines; providing for placement of Trust Fund with a custodian; establishing duties and requirements for the custodian; directing the Commission to develop an investment plan; requiring the Commission to compile quarterly financial reports and an annual report; stating contents of the reports; prohibiting a fiduciary of the Trust Fund to cause certain transactions to occur; prohibiting a fiduciary from taking certain actions; allowing a fiduciary to make certain investments and provide certain services; specifying actions that make a person or financial institution a fiduciary of the Trust Fund; 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 2242.1 of Title 74, unless there is created a duplication in numbering, reads as follows:

Each employee at Murray State Park or Lake Murray Lodge who has a minimum of two (2) years' continuous service with the Oklahoma Tourism and Recreation Department at Murray State Park or Lake Murray Lodge on the date of closure of the facility shall have the opportunity to obtain employment with any successor operator of a resort or park facility located on the lands held by the Oklahoma Tourism and Recreation Department, provided the employee is qualified and eligible for any such employment. Further, the Oklahoma Tourism and Recreation Department is hereby directed to develop a severance package for all employees of the Department affected by the closure of any state lodge or park facility owned by the Department.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2276.1 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created a trust fund to be known as the "Oklahoma State Park Trust Fund". The Oklahoma Tourism and Recreation Commission shall be the trustees of said Trust Fund.

B. In addition to the revenues received from royalty payments as provided for in Section 3 of this act, the Commission shall utilize not more than five percent (5%) of the principal of the Trust Fund annually to:

1. Protect and conserve state park lands, but shall not include routine maintenance expenses of the state parks;

2. Preserve historic properties under the jurisdiction of the Commission;

3. Provide for one-time capital upgrades and improvements of state park resources; and

4. Pay fees and expenses associated with the services of a custodian of the Trust Fund.

C. The Commission shall give priority for funding to the state park from which the revenues were initially derived.

D. The Trust Fund principal shall consist of monies from any and all mineral lease payments, seismograph fees, or other payments associated with oil and gas mineral operations at state parks that are managed by the Oklahoma Tourism and Recreation Department, any funds appropriated or transferred to the Trust Fund by the Legislature, and any monies or assets contributed to the Trust Fund from any other source, public or private.

E. Notwithstanding other provisions of law, income and investment return on Trust Fund principal shall accrue to the Trust Fund for use as provided by authorization of the trustees for the purposes listed in subsection B of this section. Except as provided for in subsection B of this section, no income or investment return or principal shall be used for administrative expenses of the Oklahoma Tourism and Recreation Department or expenses incurred by the Commission in the administration of the Trust Fund.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2250.1 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. In addition to the expenditure of funds from the Oklahoma State Park Trust Fund as provided for in Section 2 of this act, the Commission shall utilize revenues received from all royalty payments associated with oil and gas mineral operations at state parks that are managed by the Oklahoma Tourism and Recreation Department as follows:

1. To protect and conserve state park lands, but shall not include routine maintenance expenses of the state parks;

2. To preserve historic properties under the jurisdiction of the Commission; and

3. To provide for one-time capital upgrades and improvements of state park resources.

B. The Commission shall give priority for funding to the state park from which the royalty payment revenues were initially derived.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2276.2 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Tourism and Recreation Commission shall discharge their duties as trustees of the Oklahoma State Park Trust Fund created in Section 2 of this act, hereafter referred to as the "Trust Fund":

1. With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

2. By diversifying the investments of the Trust Fund so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

3. In accordance with the laws, documents and instruments governing the Trust Fund.

B. The Commission may procure insurance indemnifying the members of the Commission from personal loss or accountability from liability resulting from the action or inaction of a member as a trustee.

C. The Commission shall utilize the written investment policy developed by the State Treasurer for the investment of public funds for the investment and management of the Trust Fund. All investments of the Trust Fund shall be consistent with the guidelines set forth in Section 89.2 of Title 62 of the Oklahoma Statutes which establishes the investment requirements for public funds by the State Treasurer.

D. Funds and revenues for investment by the Commission shall be placed with a custodian selected by the Commission. Payment of the fees for the services of a custodian may be paid from the income and investment return on the Trust Fund. The custodian shall be a bank or trust company offering pension fund master trustee and master

custodial services. The custodian shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Commission. In compliance with the investment policy guidelines of the Commission, the custodian bank or trust company shall be contractually responsible for ensuring that all monies of the Trust Fund are invested in income-producing investment vehicles at all times. If a custodian bank or trust company has not received direction from the Commission as to the investment of the monies of the Trust Fund in specific investment vehicles, the custodian bank or trust company shall be contractually responsible to the Commission for investing the monies in appropriately collateralized short-term interest-bearing investment vehicles.

E. By November 1, 2006, and prior to August 1 of each year thereafter, the Commission shall develop a written investment plan for the Trust Fund.

F. The Commission shall compile quarterly financial reports of all the funds and accounts of the Trust Fund on a fiscal year basis. The reports shall include several relevant measures of investment value, including acquisition cost and current fair market value with appropriate summaries of total holdings and returns. The report shall be distributed to the Director of the Legislative Service Bureau.

G. After July 1 and before October 1 of each year, the Commission shall publish an annual report presented in simple and easily understood language. The report shall be submitted to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Director of the Legislative Service Bureau. The annual report shall cover the operation of the Trust Fund during the past fiscal year, including income, disbursements, and the financial condition of the Trust Fund at the end of the fiscal year. The annual report shall also contain the information issued in the quarterly reports required pursuant to

subsection F of this section as well as a summary of the results of the most recent actuarial valuation to include total assets, total liabilities, unfunded liability or over-funded status, contributions and any other information deemed relevant by the Commission.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2276.3 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. A fiduciary with respect to the Oklahoma State Park Trust Fund created in Section 2 of this act, shall not cause the Trust Fund to engage in a transaction if the fiduciary knows or should know that the transaction constitutes a direct or indirect:

1. Sale or exchange, or leasing of any property from the Trust Fund to a party in interest;

2. Lending of money or other extension of credit from the Trust Fund to a party in interest;

3. Furnishing of goods, services, or facilities from the Trust Fund to a party in interest; or

4. Transfer to, or use by or for the benefit of, a party in interest of any assets of the Trust Fund.

B. A fiduciary with respect to the Trust Fund shall not:

1. Deal with the assets of the Trust Fund in the interest of or for the account of the fiduciary;

2. In the individual or any other capacity of the fiduciary act in any transaction involving the Trust Fund on behalf of a party whose interests are adverse to the interests of the Trust Fund; or

3. Receive any consideration for the personal account of the fiduciary from any party dealing with the Trust Fund in connection with a transaction involving the assets of the Trust Fund.

C. A fiduciary with respect to the Trust Fund may:

1. Invest all or part of the assets of the Trust Fund in deposits which bear the highest interest rate available for funds with the necessary degree of availability in a bank or similar

financial institution supervised by the United States or a state, if the bank or other institution is a fiduciary of the plan; or

2. Provide any ancillary service by a bank or similar financial institution supervised by the United States or a state, if the bank or other institution is a fiduciary of the plan.

D. A person or a financial institution is a fiduciary with respect to the Trust Fund to the extent that the person or the financial institution:

1. Exercises any discretionary authority or discretionary control respecting management of the Trust Fund or exercises any authority or control respecting management or disposition of the assets of the Trust Fund;

2. Renders investment advice for a fee or other compensation, direct or indirect, with respect to any monies or other property of the Trust Fund, or has any authority or responsibility to do so; or

3. Has any discretionary authority or discretionary responsibility in the administration of the Trust Fund.

SECTION 6. 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 House of Representatives the 16th day of March, 2006.

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Presiding Officer of the House of Representatives

Passed the Senate the ____ day of _____, 2006.

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Presiding Officer of the Senate