

ENROLLED SENATE  
CONCURRENT  
RESOLUTION NO. 45

By: Hobson and Coates of the  
Senate

and

Balkman and Dank of the  
House

A Concurrent Resolution authorizing the use of earnings from investment of construction funds for completed projects funded by the Oklahoma Capitol Improvement Authority Series 1999A Bonds for purposes of settling litigation related to J.D. McCarty Center for Children with Developmental Disabilities; authorizing settlement expenditure in excess of \$250,000.00.

WHEREAS, in February 2006, legal counsel representing the State of Oklahoma, in the case of Nashert Constructors, Inc. v. State of Oklahoma ex rel Department of Central Services, Case No. CJ-2002-641, in the District Court for Oklahoma County, Oklahoma, reached a conditional settlement agreement with the plaintiffs in such case that a payment by the State to the plaintiff and its attorneys in the sum of One Million Dollars (\$1,000,000.00) represents a reasonable and proper settlement of any and all claims connected with or in any way related to the construction of the new J.D. McCarty Center for Children with Developmental Disabilities, including all costs and attorney fees, upon the following conditions:

- (1) legislative approval of the use of certain accrued interest on Oklahoma Capitol Improvement Authority 1999A Bond funds to pay for the settlement, and
- (2) legislative approval of the proposed settlement in excess of \$250,000.00; and

WHEREAS, construction of the new J.D. McCarty Center for Children with Developmental Disabilities was one of the State construction projects funded by the Oklahoma Capitol Improvement Authority State Facilities Revenue Bonds, Series 1999A, issued pursuant to 73 O.S. Section 301 (the "1999A Bonds"); and

WHEREAS, pursuant to the Bond Resolution authorizing the 1999A Bonds, when projects funded by the 1999A Bonds have been completed, any money remaining in the construction fund for such completed projects, including earnings from investment of such construction fund (herein, "accrued interest"), may be used for other projects or

purposes upon approval of the Oklahoma Capitol Improvement Authority and the Oklahoma Legislature; and

WHEREAS, on February 9, 2006, the Oklahoma Capitol Improvement Authority (the "Authority") approved the use of earnings from investment of construction funds for completed projects funded by the 1999A Bonds, for the purpose of attempting to settle the litigation referenced above in connection with the construction of the new J.D. McCarty Center for Children with Developmental Disabilities; and

WHEREAS, the Legislature finds that the State of Oklahoma was represented by competent counsel in this matter and that such settlement would resolve all outstanding causes of action, claims, costs and attorney fees in connection with this litigation; and

WHEREAS, the Legislature finds that it is in the best interest of the State of Oklahoma to approve the use of earnings from investment of construction funds for completed projects funded by the 1999A Bonds for the purpose of payment of the proposed settlement of the above-referenced litigation; and

WHEREAS, the Legislature finds that it is in the best interest of the State of Oklahoma to approve payment of sum stated above as a settlement of all issues connected with the above-referenced litigation.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE 2ND SESSION OF THE 50TH OKLAHOMA LEGISLATURE, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

THAT the Legislature hereby approves the use of earnings that have accrued from investment of construction funds for the Oklahoma Capitol Improvement Authority Series 1999A Bonds relating to completed projects for the purpose of attempting to settle the litigation referenced above in connection with the new J.D. McCarty Center for Children with Developmental Disabilities.

THAT pursuant to the provisions of Section 200 of Title 51 of the Oklahoma Statutes, the Legislature hereby approves a settlement expenditure in the sum of One Million Dollars (\$1,000,000.00) by the Department of Central Services from the remaining funds designated for the J.D. McCarty for Children with Developmental Disabilities project, the accrued interest on completed projects under the Series 1999A bond issuance, and any other funds under the control of the Department of Central Services and available for such purpose as a settlement of all matters asserted in, connected with, or in any way relating to the case of Nashert Constructors, Inc. v. State of Oklahoma ex rel Department of Central Services, Case No. CJ-2002-641, in the District Court for Oklahoma County, Oklahoma.

Adopted by the Senate the 13th day of March, 2006.

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Presiding Officer of the Senate

Adopted by the House of Representatives the 27th day of March,  
2006.

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Presiding Officer of the House  
of Representatives