

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 45

By: Anderson

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5
6 AS INTRODUCED

7 An Act relating to transportation finance; amending
8 Section 2, Chapter 285, O.S.L. 2008 (73 O.S. Supp.
9 2008, Section 341), which relates to authorization of
10 issuance of certain obligations by the Oklahoma
11 Capitol Improvement Authority; modifying certain
12 restrictions related to timing of issuance; amending
13 Section 1, Chapter 444, O.S.L. 2005, as last amended
14 by Section 3, Chapter 285, O.S.L. 2008 (69 O.S. Supp.
15 2008, Section 1521), which relates to the Rebuilding
16 Oklahoma Access and Driver Safety (ROADS) Fund;
17 clarifying certain apportionment language to conform
18 with modification of restrictions related to timing
19 of issuance; providing an effective date; and
20 declaring an emergency.

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

22 SECTION 1. AMENDATORY Section 2, Chapter 285, O.S.L.
23 2008 (73 O.S. Supp. 2008, Section 341), is amended to read as
24 follows:

25 Section 341. A. Subject to the limitations with respect to the
26 authorized date of issuance provided by paragraphs 1 and 2 of this
27 subsection, the Oklahoma Capitol Improvement Authority is authorized
28 to issue notes, bonds, or other evidences of obligation in an amount
29 necessary to generate net proceeds of:

1 1. One Hundred Fifty Million Dollars (\$150,000,000.00), no
2 earlier than ~~August 1, 2009~~ August 1, 2010, after providing for
3 costs of issuance, credit enhancement, reserves, and other
4 associated expenses related to the financing; and

5 2. In addition to the amount of net proceeds specified by
6 paragraph 1 of this subsection, One Hundred Fifty Million Dollars
7 (\$150,000,000.00), no earlier than ~~August 1, 2010~~ August 1, 2011,
8 after providing for costs of issuance, credit enhancement, reserves,
9 and other associated expenses related to the financing.

10 B. Net proceeds of the financing will be deposited into a
11 construction fund to provide for the financing of acquisition of
12 real property, together with improvements located thereon, and
13 personal property, to construct, maintain and improve those state
14 highway and state bridge assets identified in the Oklahoma
15 Transportation Commission Construction Work Plan for the federal
16 fiscal years 2007 through 2014 (FFY-2007 through FFY-2014) as
17 specifically identified in the Appendix of this act and which is
18 incorporated by reference as if fully set out herein.

19 C. The Transportation Commission or the Department of
20 Transportation shall use the proceeds identified in subsection B of
21 this section according to the priority of the enumerated project as
22 it appears for the applicable federal fiscal year in the
23 Construction Work Plan described in subsection B of this section in
24 order to facilitate the completion of the enumerated projects,

1 giving consideration to the ability to match federal funding and
2 such other factors as the Transportation Commission or the
3 Department of Transportation shall deem fiscally prudent.

4 D. Earnings that result from the investment of the construction
5 fund may be used for the projects authorized in this section or for
6 other legal purposes approved by the Authority.

7 E. The Authority and the Transportation Commission and the
8 Department of Transportation are authorized to enter into such
9 agreements as may be necessary to authorize the Authority to hold
10 title to the real and personal property and improvements until such
11 time as any obligations issued for the purpose set forth in
12 subsection B of this section are retired or defeased and the
13 Authority may lease the real property and improvements to the
14 Transportation Commission or the Department of Transportation for
15 the purposes authorized by this section. Upon final redemption or
16 defeasance of the obligations created pursuant to this section,
17 title to the real and personal property and improvements shall be
18 transferred from the Oklahoma Capitol Improvement Authority to the
19 Transportation Commission or the Department of Transportation.

20 F. For the purpose of paying the costs for acquisition and
21 construction of the real property and improvements and personal
22 property and making the repairs, refurbishments, and improvements to
23 real and personal property, and providing funding for the project
24 authorized in this section, and for the purpose authorized in

1 subsection H of this section, the Authority is hereby authorized to
2 borrow monies on the credit of the income and revenues to be derived
3 from the leasing of such real and personal property and improvements
4 and, in anticipation of the collection of such income and revenues,
5 to issue negotiable obligations in one or more series.

6 G. It is the intent of the Legislature to appropriate to the
7 Department of Transportation sufficient monies to make rental
8 payments for the purposes of retiring the obligations created
9 pursuant to this section.

10 H. To the extent funds are available from the proceeds of the
11 borrowing authorized by subsection A of this section, the Oklahoma
12 Capitol Improvement Authority shall provide for the payment of
13 professional fees and associated costs related to the projects
14 authorized in this section.

15 I. The Authority may issue obligations in one or more series
16 and in conjunction with other issues of the Authority. The
17 Authority is authorized to hire bond counsel, financial consultants,
18 and such other professionals as it may deem necessary to provide for
19 the efficient sale of the obligations and may utilize a portion of
20 the proceeds of any borrowing to create such reserves as may be
21 deemed necessary and to pay costs associated with the issuance and
22 administration of such obligations.

23 J. The bond indenture or other instrument pursuant to which the
24 Oklahoma Capitol Improvement Authority becomes obligated for the

1 repayment of principal and interest of the proceeds from the sale of
2 obligations authorized in subsection A of this section shall provide
3 that all obligations are to be repaid from the source of revenue
4 specified in this section.

5 K. The bonds or other obligations issued pursuant to this
6 section shall not at any time be deemed to constitute a debt of the
7 state or of any political subdivision thereof or a pledge of the
8 faith and credit of the state or of any such political subdivision.

9 L. Such bonds or other obligations shall contain on the face
10 thereof a statement that neither the faith and credit nor the taxing
11 power of the state or any political subdivision thereof is pledged,
12 or may hereafter be pledged, to the payment of the principal of or
13 the interest on such bonds.

14 M. The obligations authorized under this section may be sold at
15 either competitive or negotiated sale, as determined by the
16 Authority, and in such form and at such prices as may be authorized
17 by the Authority. The Authority may enter into agreements with such
18 credit enhancers and liquidity providers as may be determined
19 necessary to efficiently market the obligations. The obligations
20 may mature and have such provisions for redemption as shall be
21 determined by the Authority, but in no event shall the final
22 maturity of such obligations occur later than fifteen (15) years
23 from the first principal maturity date.

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1 N. Any interest earnings on funds or accounts created for the
2 purposes of this section may be utilized as partial payment of the
3 annual debt service or for the purposes directed by the Authority.

4 O. The obligations issued under this section, the transfer
5 thereof and the interest earned on such obligations, including any
6 profit derived from the sale thereof, shall not be subject to
7 taxation of any kind by the State of Oklahoma, or by any county,
8 municipality or political subdivision therein.

9 P. The Authority may direct the investment of all monies in any
10 funds or accounts created in connection with the offering of the
11 obligations authorized under this section. Such investments shall
12 be made in a manner consistent with the investment guidelines of the
13 State Treasurer. The Authority may place additional restrictions on
14 the investment of such monies if necessary to enhance the
15 marketability of the obligations.

16 Q. Insofar as they are not in conflict with the provisions of
17 this section, the provisions of Section 151 et seq. of ~~Title 73 of~~
18 ~~the Oklahoma Statutes~~ this title shall apply to this section.

19 R. The Oklahoma Capitol Improvement Authority may initiate
20 proceedings for purposes of validating the obligations authorized
21 pursuant to the provisions of this section according to the
22 provisions of Section 14.1 of Title 20 of the Oklahoma Statutes not
23 later than one hundred twenty (120) days after ~~the effective date of~~
24 ~~this act~~ July 1, 2009.

1 SECTION 2. AMENDATORY Section 1, Chapter 444, O.S.L.
2 2005, as last amended by Section 3, Chapter 285, O.S.L. 2008 (69
3 O.S. Supp. 2008, Section 1521), is amended to read as follows:
4 Section §69-1521.

5 Section 1521. A. There is hereby created in the State Treasury
6 a fund to be known as the "Rebuilding Oklahoma Access and Driver
7 Safety Fund". The fund shall be a continuing fund, not subject to
8 fiscal year limitations, and shall consist of all appropriations and
9 transfers made by the Legislature. All monies accruing to the
10 credit of said fund are hereby appropriated and may be budgeted and
11 expended beginning with the fiscal year ending June 30, 2006, and
12 each fiscal year thereafter by the Department of Transportation for
13 the purposes authorized by subsection G of this section.
14 Expenditures from said fund shall be made upon warrants issued by
15 the State Treasurer against claims filed as prescribed by law with
16 the Director of State Finance for approval and payment.

17 B. There shall be apportioned to the funds specified in this
18 subsection from the monies that would otherwise be apportioned to
19 the General Revenue Fund by Section 2352 of Title 68 of the Oklahoma
20 Statutes from the revenues derived pursuant to subsections A, B and
21 E of Section 2355 of Title 68 of the Oklahoma Statutes amounts as
22 follows:

23 1. For the fiscal year ending June 30, 2006:
24

- 1 a. the first Fifteen Million Dollars (\$15,000,000.00)
2 shall be apportioned to the Rebuilding Oklahoma Access
3 and Driver Safety Fund,
- 4 b. the next Two Million Dollars (\$2,000,000.00) shall be
5 apportioned to the Oklahoma Tourism and Passenger Rail
6 Revolving Fund created pursuant to Section 325 of
7 Title 66 of the Oklahoma Statutes to be used for
8 capital and operating costs for the "Heartland Flyer"
9 rail project,
- 10 c. the next Five Hundred Thousand Dollars (\$500,000.00)
11 shall be apportioned to the Public Transit Revolving
12 Fund created pursuant to Section 4031 of this title to
13 be used for purposes authorized by law other than the
14 purpose described by subparagraph b of this paragraph,
15 and
- 16 d. all amounts apportioned pursuant to this paragraph
17 shall be divided into twelve equal amounts to be
18 apportioned each month during the fiscal year;

19 2. For the fiscal year beginning July 1, 2009, and for each
20 fiscal year thereafter, subject to the provisions of paragraph 4 of
21 this subsection, and, except for the amount prescribed by
22 subparagraph a of this paragraph, subject to any reductions required
23 by subsection F of this section, there shall be apportioned to the
24 Rebuilding Oklahoma Access and Driver Safety Fund:

- 1 a. the first Thirty Million Dollars (\$30,000,000.00)
2 which shall be allocated and used by the Department of
3 Transportation first for the purpose of making any
4 required payments for principal, interest or other
5 costs of borrowing with respect to the obligations
6 issued pursuant to Section ~~2 of this act~~ 341 of Title
7 73 of the Oklahoma Statutes and after any such
8 required payment has been made then for the purposes
9 otherwise authorized by this section, plus
- 10 b. the total amount apportioned to the Rebuilding
11 Oklahoma Access and Driver Safety Fund for the
12 preceding fiscal year which, except for the amount
13 prescribed by subparagraph a of this paragraph, shall
14 be apportioned before any other amount is apportioned
15 pursuant to Section 2352 of Title 68 of the Oklahoma
16 Statutes, plus
- 17 c. an additional incremental amount which shall not be in
18 excess of the amount prescribed by subparagraph a of
19 this paragraph and that is required in order for the
20 total apportionment for such fiscal year to equal
21 Three Hundred Seventy Million Dollars
22 (\$370,000,000.00), and
- 23 d. all amounts apportioned pursuant to this paragraph
24 shall be divided into twelve equal amounts to be

1 apportioned each month during the fiscal year except
2 the amount specified in subparagraph a of this
3 paragraph which amount shall be allocated in its full
4 amount in cash not later than July 30 each year or
5 such later date as may be required in order for the
6 amount to be allocated in cash;

7 3. For the fiscal year ending June 30, 2007, and for each
8 fiscal year thereafter after the apportionments required by
9 paragraph 2 of this subsection have been made:

10 a. the next Two Million Dollars (\$2,000,000.00) shall be
11 apportioned to the Oklahoma Tourism and Passenger Rail
12 Revolving Fund created pursuant to Section 325 of
13 Title 66 of the Oklahoma Statutes to be used for
14 capital and operating costs for the "Heartland Flyer"
15 rail project,

16 b. the next Three Million Dollars (\$3,000,000.00) shall
17 be apportioned to the Public Transit Revolving Fund
18 created pursuant to Section 4031 of this title to be
19 used for purposes authorized by law other than the
20 purpose described by subparagraph a of this paragraph,
21 and

22 c. all amounts apportioned pursuant to this paragraph
23 shall be divided into twelve equal amounts to be
24 apportioned each month during the fiscal year; and

1 4. For each fiscal year after the first fiscal year in which
2 the total apportionment to the Rebuilding Oklahoma Access and Driver
3 Safety Fund as provided by paragraph 2 of this subsection equals
4 Three Hundred Seventy Million Dollars (\$370,000,000.00), the first
5 Three Hundred Seventy Million Dollars (\$370,000,000.00) collected
6 pursuant to subsections A, B and E of Section 2355 of Title 68 of
7 the Oklahoma Statutes and apportioned pursuant to Section 2352 of
8 Title 68 of the Oklahoma Statutes that would otherwise be
9 apportioned to the General Revenue Fund shall be apportioned to the
10 Rebuilding Oklahoma Access and Driver Safety Fund. With the
11 exception of the amount prescribed by subparagraph a of paragraph 2
12 of this subsection, all amounts apportioned pursuant to this
13 paragraph shall be divided into twelve equal amounts to be
14 apportioned each month during the fiscal year.

15 C. The apportionments of revenues required by subparagraphs a,
16 b and c of paragraph 2 of subsection B of this section shall be made
17 until the total annual apportionment to the Rebuilding Oklahoma
18 Access and Driver Safety Fund equals Three Hundred Seventy Million
19 Dollars (\$370,000,000.00). After such annual apportionment level is
20 reached, the apportionment to the fund shall be governed by the
21 provisions of paragraph 4 of subsection B of this section.

22 D. The monies apportioned to the Rebuilding Oklahoma Access and
23 Driver Safety Fund shall not be used to supplant or replace existing
24 state funds used for transportation purposes.

1 E. In order to ensure that the funds from the ROADS Fund are
2 used to enhance and not supplant state funding for the Department of
3 Transportation, the State Board of Equalization shall examine and
4 investigate expenditures from the fund each year. For purposes of
5 this examination, monies used to retire outstanding debt obligations
6 for which the Department of Transportation is responsible shall be
7 excluded. At the meeting of the State Board of Equalization held
8 within five (5) days after the monthly apportionment in February of
9 each year, the State Board of Equalization shall issue a finding and
10 report which shall state whether expenditures from the ROADS Fund
11 were used to enhance or supplant state funding for the Department of
12 Transportation. If the State Board of Equalization finds that state
13 funding for the Department of Transportation was supplanted by funds
14 from the ROADS Fund, the Board shall specify the amount by which
15 such funding was supplanted. In this event, the Legislature shall
16 not make any appropriations for the ensuing fiscal year until an
17 appropriation in that amount is made to replenish state funding for
18 the Department of Transportation.

19 F. In the event that the Director of the Office of State
20 Finance declares a General Revenue Fund revenue failure pursuant to
21 Section 41.9 of Title 62 of the Oklahoma Statutes, and agency
22 allocations are reduced pursuant to the provisions of Section 41.9
23 of Title 62 of the Oklahoma Statutes, the amounts that would
24 otherwise be apportioned to the ROADS Fund by:

1 1. Subparagraphs a, b and c of paragraph 1 of subsection B of
2 this section;

3 2. Subparagraph a of paragraph 2 of subsection B of this
4 section, only to the extent that the amount is not required for debt
5 service related to the obligations authorized pursuant to Section 2
6 ~~of this act~~ 341 of Title 73 of the Oklahoma Statutes;

7 3. Subparagraphs b and c of paragraph 2 of subsection B of this
8 section; and

9 4. Subparagraphs a and b of paragraph 3 of subsection B of this
10 section,

11 shall be reduced by a percentage equal to that required of the
12 General Revenue Fund appropriations to state agencies and such
13 reductions shall occur during the entire fiscal year and for any
14 month during which such reductions are required by the Office of
15 State Finance and by the same percentage as that required of the
16 agencies for such General Revenue Fund appropriations.

17 G. The Department of Transportation shall use the monies in the
18 Rebuilding Oklahoma Access and Driver Safety Fund for:

19 1. The construction and maintenance of state roads, bridges and
20 highways;

21 2. The direct expenses of operating and maintaining the state
22 highway system, including bridges;

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1 3. Direct expenses incurred in constructing, repairing, and
2 maintaining state highways, farm-to-market roads, county highways
3 and bridges as authorized by law;

4 4. Matching federal funds;

5 5. The purchase of materials, tools, machinery, motor vehicles,
6 and equipment necessary or convenient for the construction and
7 maintenance of the state highway system and bridges;

8 6. Debt service incurred prior to January 1, 2006, for Capital
9 Improvement Program bonds sold pursuant to Section 2001 of this
10 title; and

11 7. Debt service incurred on or after ~~July 1, 2009~~ July 1, 2010,
12 with respect to obligations authorized to be issued pursuant to
13 ~~Section 2 of this act~~ 341 of Title 73 of the Oklahoma Statutes.

14 H. From the monies allocated pursuant to the provisions of
15 subparagraph a of paragraph 2 of subsection B of this section each
16 fiscal year, the Department of Transportation shall make payments
17 required for the payment of principal, interest and other costs
18 related to the obligations issued by the Oklahoma Capitol
19 Improvement Authority as authorized by ~~Section 2 of this act~~ 341 of
20 Title 73 of the Oklahoma Statutes and such payments shall be made by
21 the Department each fiscal year before such monies are used for any
22 other purpose.

23 SECTION 3. This act shall become effective July 1, 2009.
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1 SECTION 4. It being immediately necessary for the preservation
2 of the public peace, health and safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

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