

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 SUBCOMMITTEE RECOMMENDATION
4 FOR

5 HOUSE BILL NO. 1517

6 By: Liebmann

7
8 SUBCOMMITTEE RECOMMENDATION

9 An Act relating to transportation finance;
10 authorizing issuance of certain obligations by the
11 Oklahoma Capitol Improvement Authority; stating
12 amount of net proceeds; imposing certain restrictions
13 related to timing of issuance; providing for use of
14 net proceeds; specifying authorized use of proceeds;
15 providing for disposition of earnings; authorizing
16 agreements between the Oklahoma Capitol Improvement
17 Authority and the Department of Transportation;
18 specifying content of agreements; providing for
19 effect of redemption; authorizing borrowing of monies
20 and issuance of negotiable obligations; authorizing
21 payment of certain fees and costs; authorizing
22 issuance in series; requiring repayment from certain
23 revenue sources; providing obligations not general
24 obligations of the State of Oklahoma; providing full
faith and credit not pledged to repayment;
prescribing procedures for sale of obligations;
authorizing liquidity agreements; providing for
disposition of interest earnings; providing exemption
from taxation; providing for investment of proceeds;
providing for applicability of certain statutory
provisions; authorizing Oklahoma Capitol Improvement
Authority to initiate certain judicial proceedings;
amending 17 O.S. 2001, Section 354, as last amended
by Section 5, Chapter 307, O.S.L. 2008 (17 O.S. Supp.
2010, Section 354), which relates to the Oklahoma
Petroleum Storage Tank Release Indemnity Program;
modifying certain apportionment amounts related to
Weigh Station Improvement Revolving Fund; providing

1 for codification; providing an effective date; and
2 declaring an emergency.

3
4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

5 SECTION 1. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 345 of Title 73, unless there is
7 created a duplication in numbering, reads as follows:

8 A. Subject to the limitations with respect to the authorized
9 date of issuance provided by this subsection, the Oklahoma Capitol
10 Improvement Authority is authorized to issue notes, bonds, or other
11 evidences of obligation in an amount necessary to generate net
12 proceeds of One Hundred Million Dollars (\$100,000,000.00), no
13 earlier than August 1, 2011, after providing for costs of issuance,
14 credit enhancement, reserves, and other associated expenses related
15 to the financing.

16 B. Net proceeds of the financing will be deposited into a
17 construction fund to provide for the financing of acquisition of
18 real property, together with improvements located thereon, and
19 personal property, to construct, maintain and improve ports of entry
20 facilities on the state highway system.

21 C. Earnings that result from the investment of the construction
22 fund may be used for the projects authorized in this section or for
23 other legal purposes approved by the Authority.

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

14 E. For the purpose of paying the costs for acquisition and
15 construction of the real property and improvements and personal
16 property and making the repairs, refurbishments, and improvements to
17 real and personal property, and providing funding for the project
18 authorized in this section, and for the purpose authorized in
19 subsection H of this section, the Authority is hereby authorized to
20 borrow monies on the credit of the income and revenues to be derived
21 from the leasing of such real and personal property and improvements
22 and, in anticipation of the collection of such income and revenues,
23 to issue negotiable obligations in one or more series.

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1 F. To the extent funds are available from the proceeds of the
2 borrowing authorized by subsection A of this section, the Oklahoma
3 Capitol Improvement Authority shall provide for the payment of
4 professional fees and associated costs related to the projects
5 authorized in this section.

6 G. The Authority may issue obligations in one or more series
7 and in conjunction with other issues of the Authority. The
8 Authority is authorized to hire bond counsel, financial consultants,
9 and such other professionals as it may deem necessary to provide for
10 the efficient sale of the obligations and may utilize a portion of
11 the proceeds of any borrowing to create such reserves as may be
12 deemed necessary and to pay costs associated with the issuance and
13 administration of such obligations.

14 H. The bond indenture or other instrument pursuant to which the
15 Oklahoma Capitol Improvement Authority becomes obligated for the
16 repayment of principal and interest of the proceeds from the sale of
17 obligations authorized in subsection A of this section shall provide
18 that all obligations are to be repaid from the source of revenue
19 specified in this section.

20 I. The bonds or other obligations issued pursuant to this
21 section shall not at any time be deemed to constitute a debt of the
22 state or of any political subdivision thereof or a pledge of the
23 faith and credit of the state or of any such political subdivision.
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1 J. Such bonds or other obligations shall contain on the face
2 thereof a statement that neither the faith and credit nor the taxing
3 power of the state or any political subdivision thereof is pledged,
4 or may hereafter be pledged, to the payment of the principal of or
5 the interest on such bonds.

6 K. The obligations authorized under this section may be sold at
7 either competitive or negotiated sale, as determined by the
8 Authority, and in such form and at such prices as may be authorized
9 by the Authority. The Authority may enter into agreements with such
10 credit enhancers and liquidity providers as may be determined
11 necessary to efficiently market the obligations. The obligations
12 may mature and have such provisions for redemption as shall be
13 determined by the Authority, but in no event shall the final
14 maturity of such obligations occur later than fifteen (15) years
15 from the first principal maturity date.

16 L. Any interest earnings on funds or accounts created for the
17 purposes of this section may be utilized as partial payment of the
18 annual debt service or for the purposes directed by the Authority.

19 M. The obligations issued under this section, the transfer
20 thereof and the interest earned on such obligations, including any
21 profit derived from the sale thereof, shall not be subject to
22 taxation of any kind by the State of Oklahoma, or by any county,
23 municipality or political subdivision therein.

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1 N. The Authority may direct the investment of all monies in any
2 funds or accounts created in connection with the offering of the
3 obligations authorized under this section. Such investments shall
4 be made in a manner consistent with the investment guidelines of the
5 State Treasurer. The Authority may place additional restrictions on
6 the investment of such monies if necessary to enhance the
7 marketability of the obligations.

8 O. Insofar as they are not in conflict with the provisions of
9 this section, the provisions of Section 151 et seq. of Title 73 of
10 the Oklahoma Statutes shall apply to this section.

11 P. The Oklahoma Capitol Improvement Authority may initiate
12 proceedings for purposes of validating the obligations authorized
13 pursuant to the provisions of this section according to the
14 provisions of Section 14.1 of Title 20 of the Oklahoma Statutes not
15 later than one hundred twenty (120) days after the effective date of
16 this act.

17 SECTION 2. AMENDATORY 17 O.S. 2001, Section 354, as last
18 amended by Section 5, Chapter 307, O.S.L. 2008 (17 O.S. Supp. 2010,
19 Section 354), is amended to read as follows:

20 Section 354. A. Except as otherwise provided by this section,
21 there shall be an assessment of one cent (\$0.01) per gallon upon the
22 sale of each gallon of motor fuel used or consumed in this state.
23 The assessment imposed pursuant to the provisions of this section
24 shall be for the purposes of providing revenue to:

- 1 1. The Oklahoma Corporation Commission Revolving Fund pursuant
2 to paragraph 1 of subsection C of this section;
- 3 2. The Petroleum Storage Tank Indemnity Fund pursuant to
4 paragraphs 3 and 4 of subsection C of this section;
- 5 3. The State Transportation Fund pursuant to subparagraph b of
6 paragraph 5 of subsection C of this section;
- 7 4. The Corporation Commission Storage Tank Regulation Revolving
8 Fund pursuant to subparagraph a of paragraph 5 of subsection C of
9 this section;
- 10 5. The Department of Environmental Quality Revolving Fund
11 pursuant to paragraph 2 of subsection C of this section; and
- 12 6. The ~~Higher Education Facilities~~ Weigh Station Improvement
13 Revolving Fund pursuant to paragraph 3 of subsection C of this
14 section.

15 The assessment shall be imposed at the time of the sale of the
16 motor fuel and shall be precollected and remitted to the Oklahoma
17 Tax Commission in accordance with Section 500.1 et seq. of Title 68
18 of the Oklahoma Statutes and as provided by Section 355 of this
19 title.

20 B. 1. Exempt from the assessment imposed pursuant to
21 subsection A of this section are:

- 22 a. the state government,
- 23 b. the federal government,
- 24 c. class I and class II railroads, and

1 d. sales for exportation outside of this state by a
2 licensed exporter.

3 2. Exempt from the assessment imposed for purposes specified in
4 paragraph 3 of subsection A of this section are sales of:

5 a. motor fuel used solely and exclusively in district-
6 owned or leased public school buses, FFA and 4-H club
7 trucks for the purposes of legally transporting public
8 school children, or in the operation of vehicles used
9 in driver training,

10 b. motor fuels used solely and exclusively to propel
11 motor vehicles on the public roads and highways of
12 this state when leased or owned and being operated for
13 the sole benefit of a county, city, town, volunteer
14 fire department with a state certification and rating,
15 rural electric cooperative, rural water and sewer
16 district, rural ambulance service district, or
17 federally recognized Indian tribe as specified by
18 Section 500.10 of Title 68 of the Oklahoma Statutes,

19 c. motor fuel to counties and cities and towns,

20 d. diesel fuel for off-road purposes specified by Section
21 500.10 of Title 68 of the Oklahoma Statutes,

22 e. motor fuel used for agricultural purposes specified by
23 Section 500.10 of Title 68 of the Oklahoma Statutes,

24 and

1 f. motor fuel used in aircraft or in aircraft engines
2 pursuant to Section 500.10 of Title 68 of the Oklahoma
3 Statutes.

4 C. The assessment imposed by subsection A of this section shall
5 be distributed in the following manner:

6 1. The first One Million Dollars (\$1,000,000.00) collected
7 during each fiscal year shall be deposited into the Corporation
8 Commission Revolving Fund created in Section 180.7 of this title;

9 2. After deduction of the amount required pursuant to paragraph
10 1 of this subsection, eight percent (8%) of the remainder of the
11 revenue collected during each fiscal year shall be deposited into
12 the Department of Environmental Quality Revolving Fund created in
13 Section 2-3-401 of Title 27A of the Oklahoma Statutes;

14 3. Until the total amount deposited since July 1, 2008, in the
15 ~~State Transportation Weigh Station Improvement Revolving~~ Fund totals
16 ~~Fifty one Million Dollars (\$51,000,000.00)~~ One Hundred Thirty-five
17 Million Dollars (\$135,000,000.00), ~~Five Hundred Thousand Dollars~~
18 ~~(\$500,000.00)~~ Seven Hundred Fifty Thousand Dollars (\$750,00.00) per
19 month of all revenue from the assessment received over the amount
20 required by paragraphs 1 and 2 of this subsection shall be deposited
21 in the Weigh Station Improvement Revolving Fund, created in Section
22 1167 of Title 47 of the Oklahoma Statutes and shall be used solely
23 for the purpose of constructing weigh stations;

1 4. After the total amount deposited in the Weigh Station
2 Improvement Revolving Fund totals ~~Fifty one Million Dollars~~
3 ~~(\$51,000,000.00)~~ One Hundred Thirty-five Million Dollars
4 (\$135,000,000.00), any revenue from the assessment received over the
5 amounts required in paragraphs 1 and 2 of this subsection shall be
6 deposited in the Petroleum Storage Tank Indemnity Fund created in
7 Section 353 of this title in amounts necessary to maintain the
8 maintenance level of the Indemnity Fund pursuant to subsection D of
9 this section; and

10 5. The balance of any revenue from the assessment remaining
11 above the amount required in paragraphs 1 through 4 of this
12 subsection shall be deposited as follows:

- 13 a. the first One Million Dollars (\$1,000,000.00)
14 collected during each fiscal year shall be deposited
15 in the Corporation Commission Storage Tank Regulation
16 Revolving Fund for the purpose of implementing the
17 provisions of the Oklahoma Storage Tank Regulation Act
18 and the rules promulgated thereunder, and
- 19 b. the balance of the monies collected during each fiscal
20 year shall be deposited in the State Transportation
21 Fund and shall be used solely for the purpose of
22 matching ~~Federal Aid~~ Federal Aid funds for the
23 construction of highways and roads in this state.

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1 D. 1. If at any time the Petroleum Storage Tank Indemnity Fund
2 falls below the required maintenance level on or before December 31,
3 2012, the Administrator shall notify the Tax Commission that the
4 Indemnity Fund has fallen below the required maintenance level and
5 that the assessment is to be deposited into the Indemnity Fund for
6 at least three (3) calendar months pursuant to the provisions of
7 paragraph 2 of this subsection.

8 2. At least fifteen (15) days prior to the calendar month in
9 which the assessment is to be collected for credit to the Indemnity
10 Fund, the Tax Commission, upon notification by the Administrator
11 that the Indemnity Fund has fallen below the required maintenance
12 level, shall notify the suppliers, licensed importers or other
13 appropriate persons that the assessment is being imposed for
14 purposes of maintaining the Indemnity Fund. The notice shall
15 include a date certain upon which to begin collecting the assessment
16 for credit to the Indemnity Fund and a date certain for ending the
17 assessment for credit to the Indemnity Fund. Upon notice by the Tax
18 Commission that the assessment imposed is for credit to the
19 Indemnity Fund, the supplier, licensed importer or other appropriate
20 person shall also assess, for the specified period required by the
21 Tax Commission, the sales of:

22 a. motor fuel used solely and exclusively in district-
23 owned or leased public school buses, FFA and 4-H Club
24 trucks for the purposes of legally transporting public

1 school children or in the operation of vehicles used
2 in driver's training,

3 b. motor fuels used solely and exclusively to propel
4 motor vehicles on the public roads and highways of the
5 state when leased or owned and being operated for the
6 sole benefit of a county, city or town, volunteer fire
7 department with a state certification and rating,
8 rural electric cooperative, rural water and sewer
9 district, rural ambulance service district, or
10 federally recognized Indian tribe as specified by
11 Section 500.10 of Title 68 of the Oklahoma Statutes,

12 c. motor fuel to counties and cities and towns,

13 d. diesel fuel for off-road purposes specified by Section
14 500.10 of Title 68 of the Oklahoma Statutes,

15 e. motor fuel used for agricultural purposes specified by
16 Section 500.10 of Title 68 of the Oklahoma Statutes,
17 and

18 f. motor fuel used in aircraft and aircraft engines
19 pursuant to Section 500.10 of Title 68 of the Oklahoma
20 Statutes.

21 3. After the collection period required by this subsection has
22 expired, the revenue collected from the assessment shall be again
23 deposited in the Corporation Commission Storage Tank Regulation
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1 Revolving Fund and the State Transportation Fund as provided in
2 paragraph 5 of subsection C of this section.

3 SECTION 3. This act shall become effective July 1, 2011.

4 SECTION 4. It being immediately necessary for the preservation
5 of the public peace, health and safety, an emergency is hereby
6 declared to exist, by reason whereof this act shall take effect and
7 be in full force from and after its passage and approval.

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