

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 SUBCOMMITTEE RECOMMENDATION
4 FOR

5 HOUSE BILL NO. 2896

6 By: Morrissette

7 SUBCOMMITTEE RECOMMENDATION

8 An Act relating to transportation; creating the
9 ConnectOklahoma Multimodal Transportation Act;
10 declaring legislative intent; defining terms;
11 creating the ConnectOklahoma Mass Transit and
12 Infrastructure Revolving Fund; exempting the fund
13 from limitations; allowing for deposits and
14 expenditures from the fund; providing process for
15 expenditures; providing for investment of fund
16 monies; providing the Department of Transportation
17 authority to use the fund for certain purposes under
18 certain instances; limiting expenditure for certain
19 purpose; authorizing the management of accounts;
20 providing the Department of Transportation certain
21 duties and powers related to reviewing, coordinating,
22 referring and providing oversight and assistance with
23 regard to certain applications; creating and
24 providing nomination procedure for ConnectOklahoma
Regional and Modal Committees; providing for
rulemaking related to application criteria and
application processing; establishing criteria,
scoring and ranking system; empowering the Department
of Transportation to enter binding loan and grant
agreements with eligible applicants; empowering the
Attorney General to take action to collect monies
owed in instances of default; creating the
ConnectOklahoma Final Review Board and providing for
appointments; requiring certain agencies to make
nominations; providing reimbursement for travel
expenses if funds are available; allowing for removal
of board members; requiring staffing by the
Department of Transportation; providing a schedule
for organization, meeting and election of officers;
defining a quorum; providing for normal and special

1 meetings; requiring the Department of Transportation
2 to provide meeting area; providing powers to the
3 ConnectOklahoma Final Review Board which include
4 communicating certain input with the Department of
5 Transportation, appointing committee members and
6 recommending eligible projects for approval under
7 certain conditions; requiring certain preference and
8 prioritization of recommendations; requiring certain
9 annual reports; creating and establishing eligibility
10 and appointment process for ConnectOklahoma Regional
11 Committees; creating and establishing eligibility and
12 appointment process for ConnectOklahoma Modal
13 Committees; requiring Committees to meet as directed;
14 requiring evaluation of transportation project
15 applications using certain criteria; requiring
16 recommendation of approval or rejection of
17 applications; requiring certain written
18 communication; creating an income tax return check-
19 off for the benefit of the ConnectOklahoma Mass
20 Transit and Infrastructure Revolving Fund; directing
21 placement of funds; allowing refund for certain
22 donations; amending 69 O.S. 2011, Sections 403, as
23 amended by Section 1, Chapter 356, O.S.L. 2012 and
24 409 (69 O.S. Supp. 2013, Section 403), which relate
to the State Infrastructure Bank; expanding scope of
the State Infrastructure Bank to include the
ConnectOklahoma Mass Transit and Infrastructure
Revolving Fund; allowing for referral of applications
to the Transportation Commission; amending 66 O.S.
2011, Section 304, as amended by Section 1, Chapter
377, O.S.L. 2013 (66 O.S. Supp. 2013, Section 304),
which relates to the Department of Transportation;
changing revolving fund to which proceeds of certain
sales shall be deposited; amending 66 O.S. 2011,
Section 309, which relates to the Oklahoma Railroad
Maintenance Revolving Fund; eliminating certain
source of revenue; providing for codification;
providing for noncodification; and providing an
effective date.

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

1 SECTION 1. NEW LAW A new section of law not to be
2 codified in the Oklahoma Statutes reads as follows:

3 The Oklahoma Legislature intends for the Multimodal
4 Transportation Fund known as ConnectOklahoma to invest in marine,
5 rail and public transit infrastructure development. The fund shall
6 be a fund within the Oklahoma State Infrastructure Bank. In
7 creating the ConnectOklahoma Mass Transit and Infrastructure
8 Revolving Fund, the Oklahoma Legislature finds that local
9 governments and businesses often lack sufficient capital and
10 technical capacity, related to engineering, planning, labor and
11 equipment, to undertake multimodal transportation projects and that
12 public financial assistance can help support these long-term
13 economic growth and job creation projects. ConnectOklahoma will
14 specifically provide grants and loans to nonhighway transportation
15 projects that promote economic development with an emphasis on job
16 creation in Oklahoma. To establish the fund, the Oklahoma
17 Legislature encourages the pursuit of federal, state and private
18 resources which shall include issuance of revenue bonds and any
19 other acceptable funding mechanisms, such as public-private
20 partnerships and other cooperative measures. To further support the
21 ability of the fund to support the marine, rail and public transit
22 infrastructure development needs of the state, the Oklahoma
23 Legislature intends that the revenue from any future expansion of
24 the Oklahoma Lottery shall be dedicated to the fund.

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 422 of Title 69, unless there is
3 created a duplication in numbering, reads as follows:

4 Sections 2 through 11 of this act shall be known and may be
5 cited as the "ConnectOklahoma Multimodal Transportation Act".

6 SECTION 3. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 423 of Title 69, unless there is
8 created a duplication in numbering, reads as follows:

9 For the purposes of the ConnectOklahoma Multimodal
10 Transportation Act:

11 1. "Eligible project" means the construction, restoration, or
12 replacement of a public transportation facility, limited to marine,
13 rail, nonhighway public transit and nonhighway freight
14 infrastructure that would enhance the economic development of this
15 state and provide safety to the citizens of this state;

16 2. "Eligible applicant" means state agencies, counties, cities,
17 special districts, municipal corporations, and Indian tribal
18 governments;

19 3. "Commission" means the Transportation Commission;

20 4. "Department" means the Department of Transportation;

21 5. "Director" means the Director of the Department of
22 Transportation; and

23 6. "ConnectOklahoma Revolving Fund" means the ConnectOklahoma
24 Mass Transit and Infrastructure Revolving Fund.

1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 424 of Title 69, unless there is
3 created a duplication in numbering, reads as follows:

4 A. There is hereby created in the State Treasury a revolving
5 fund for the Department of Transportation to be designated the
6 "ConnectOklahoma Mass Transit and Infrastructure Revolving Fund".
7 The fund shall be a continuing fund, not subject to fiscal year
8 limitations, and shall consist of the following:

9 1. Monies received by the Department of Transportation as
10 provided in Section 403 of Title 69 of the Oklahoma Statutes,
11 eligible to be used for the purposes of the ConnectOklahoma
12 Multimodal Transportation Act;

13 2. All monies received pursuant to donation by taxpayers of
14 individual or corporate income tax returns, as provided for in
15 Section 12 of this act;

16 3. All monies appropriated to the fund;

17 4. Payments of principal, interest and penalty payments on
18 loans made directly from federal monies and appropriated monies in
19 the fund;

20 5. Annual state administration fees of one-half percent (1/2%)
21 on the outstanding loan balance;

22 6. The proceeds from any rail property sale or payments for the
23 use of any rail property and any accumulated interest thereon
24 received by the Department; and

1 7. Any other sums designated for deposit to this fund from any
2 source, public, private or a public-private partnership.

3 All monies accruing to the credit of the fund are hereby
4 appropriated and may be budgeted and expended by the Department of
5 Transportation for the purposes of effectuating the provisions of
6 the ConnectOklahoma Multimodal Transportation Act. Expenditures
7 from the fund shall be made upon warrants issued by the State
8 Treasurer against claims filed as prescribed by law with the
9 Director of the Office of Management and Enterprise Services for
10 approval and payment.

11 B. The monies placed in the ConnectOklahoma Revolving Fund
12 shall be invested by the State Treasurer as prescribed by Section
13 89.2 of Title 62 of the Oklahoma Statutes. Any interest earned by
14 the State Treasurer shall be deposited to the credit of the
15 ConnectOklahoma Revolving Fund. Monies invested by the State
16 Treasurer shall be available to meet the program funding needs
17 established by the Department of Transportation pursuant to the
18 ConnectOklahoma Multimodal Transportation Act.

19 SECTION 5. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 425 of Title 69, unless there is
21 created a duplication in numbering, reads as follows:

22 A. The Department of Transportation shall use the
23 ConnectOklahoma Revolving Fund for the following purposes:

24 1. To make a loan to an eligible applicant if:

- a. the loan application, project and planning documents have been approved by the ConnectOklahoma Final Review Board,
- b. the loan is made at or below market interest rates,
- c. principal and interest payments will begin no later than the month following the completion of the project,
- d. the ConnectOklahoma Revolving Fund will be credited with all payments of principal and interest on all loans,
- e. the applicant demonstrates to the satisfaction of the Department the financial capability to assure sufficient revenues to pay debt service,
- f. the recipient of the loan establishes a dedicated source of revenue for payment of debt service for the loan, and
- g. the recipient agrees to maintain financial records in accordance with governmental accounting standards, to conduct an annual audit of the financial records relating to the construction project, and to submit the audit report to the Department on a scheduled annual basis;

2. To make a grant to an eligible applicant for an eligible project;

1 3. To guarantee or purchase insurance for eligible entities if
2 the guarantee or insurance would improve access to market credit or
3 reduce interest rates;

4 4. To provide loan guarantees to similar revolving loan
5 accounts or funds established by eligible applicants; and

6 5. To administer the ConnectOklahoma Revolving Fund pursuant to
7 the provisions in the ConnectOklahoma Multimodal Transportation Act.

8 All funds to be utilized for administrative costs from the
9 ConnectOklahoma Revolving Fund shall be subject to annual
10 appropriation by the Legislature.

11 B. Of the monies placed in the ConnectOklahoma Revolving Fund
12 as a result of paragraph 6 of subsection A of Section 4 of this act,
13 the Department is authorized and empowered to expend not to exceed
14 twenty percent (20%) of the funds available during any one (1) year
15 at locations approved by the Oklahoma Corporation Commission, such
16 ConnectOklahoma Revolving Fund monies as may be budgeted by the
17 Department of Transportation for the purposes of installing signal
18 lights, gate arms, or other active warning devices where any public
19 road, street, or highway crosses a railroad right-of-way; provided,
20 however, nothing in this act shall negate, change, or otherwise
21 modify any existing statutory or common law duty of a railroad
22 company.

1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 426 of Title 69, unless there is
3 created a duplication in numbering, reads as follows:

4 In addition to other powers and duties provided by law, the
5 Oklahoma Department of Transportation shall have the power and duty
6 to:

7 1. Review, assess, and prioritize the preliminary applications
8 received from eligible applicants;

9 2. Coordinate with the ConnectOklahoma Final Review Board to
10 assess the feasibility of each transportation project and the
11 eligibility of the applicant to receive funding from the
12 ConnectOklahoma Revolving Fund;

13 3. Refer applications to the Commission for loans and grants
14 from the ConnectOklahoma Revolving Fund that have been approved for
15 referral by the ConnectOklahoma Final Review Board;

16 4. Provide oversight and technical assistance during the
17 planning, design, and construction phases of the transportation
18 project for which the applicant is applying for a loan or grant;

19 5. Nominate ConnectOklahoma Regional Committee Members for
20 consideration by the ConnectOklahoma Final Review Board. Within
21 thirty (30) days of notification by the Final Review Board of a
22 Regional Committee vacancy the Final Review Board intends to fill,
23 the Department shall provide a nomination list of three individuals
24 who meet the conditions for such appointment; and

1 6. Nominate ConnectOklahoma Modal Committee Members for
2 consideration by the ConnectOklahoma Final Review Board. Within
3 thirty (30) days of notification by the Final Review Board of a
4 Modal Committee vacancy the Final Review Board intends to fill, the
5 Department shall provide a nomination list of three individuals who
6 meet the conditions for such appointment.

7 SECTION 7. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 427 of Title 69, unless there is
9 created a duplication in numbering, reads as follows:

10 A. The Department of Transportation shall prescribe such rules
11 as may be necessary for determining the eligibility and priority of
12 such applications for transportation projects in order for such
13 projects to be referred to the ConnectOklahoma Regional and Modal
14 Committees for consideration to receive loans and grants from the
15 ConnectOklahoma Revolving Fund. At a minimum, such rules shall:

16 1. Ensure the fair and equitable prioritization of applications
17 eligible for loans and grants pursuant to the provisions of the
18 ConnectOklahoma Multimodal Transportation Act;

19 2. Be in conformance with applicable federal law related to
20 transportation project funding;

21 3. Require that, to be approved, an applicant needs or will
22 need the transportation project loan or grant to comply with
23 regulations and standards adopted by the Department;

24 4. Require the transportation project to:

- a. be designed to enhance the economic development of this state and provide safety to its citizens,
- b. meet the established criteria of the Department and any applicable federal law related to transportation project funding,
- c. comply with all applicable federal, state, and local laws and rules, and
- d. meet any other consideration deemed necessary by the Department, to include but not be limited to meeting the definition of eligible project as defined in Section 2 of this act; and

5. Review the transportation projects based on the following criteria:

- a. whether a proposed transportation project reduces transportation costs for Oklahoma businesses or improves access to jobs and sources of labor,
- b. whether a proposed transportation project results in an economic benefit to the state,
- c. whether a proposed transportation project is a critical link connecting elements of Oklahoma's transportation system that will measurably improve utilization and efficiency of the system,
- d. how much of the cost of a proposed transportation project can be borne by the applicant for the grant or

1 loan from any source other than the ConnectOklahoma
2 Revolving Fund, and

3 e. whether a proposed transportation project is ready for
4 construction.

5 B. To assess the criteria provided in paragraph 5 of subsection
6 A of this section, the Department shall develop application
7 questions that allow a broad cross-section of applicants to
8 participate without requiring extensive data analysis or involvement
9 of a consultant. Application questions shall be designed to allow
10 Department staff to score the project under each of five criteria,
11 taking into account statutory considerations and economic benefits,
12 and to assign a total tier score to each project for subsequent
13 reviewer consideration. Scores within each criterion shall range
14 from one to ten points, to indicate whether the transportation
15 project fails to meet or thoroughly meets the objective of the
16 specific criteria. The sum of the five criteria scores for a
17 transportation project shall represent its total tier score. When
18 presenting proposed transportation projects for subsequent reviewer
19 consideration, Department staff shall rank projects into tiers based
20 on the total tier scores of the projects as follows:

- 21 1. Tier 1 - greater than forty total tier points;
- 22 2. Tier 2 - greater than thirty but not greater than forty
23 total tier points;

1 3. Tier 3 - greater than twenty but not greater than thirty
2 total tier points; and

3 4. Tier 4 - not greater than twenty total tier points.

4 SECTION 8. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 428 of Title 69, unless there is
6 created a duplication in numbering, reads as follows:

7 In addition to the other powers and duties provided by law, the
8 Oklahoma Department of Transportation shall have the power and duty
9 to:

10 1. Manage, maintain, expend and otherwise administer monies in
11 the ConnectOklahoma Revolving Fund and any accounts or subaccounts
12 in the fund, pursuant to the provisions of the ConnectOklahoma
13 Multimodal Transportation Act. The Department shall manage the fund
14 so as to make available the amounts necessary to fund loans and
15 grants to eligible applicants entitled to receive funding pursuant
16 to the provisions of the ConnectOklahoma Multimodal Transportation
17 Act;

18 2. Establish separate accounts and subaccounts within the State
19 Infrastructure Bank and provide that such accounts be segregated and
20 used for specified purposes or held as security for designated
21 obligations; and

22 3. Enter into binding loan and grant agreements with the
23 eligible applicants as specified by the Department.

24

1 SECTION 9. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 429 of Title 69, unless there is
3 created a duplication in numbering, reads as follows:

4 In the event of default in payment of the principal or interest
5 on loans made from the ConnectOklahoma Revolving Fund pursuant to
6 the ConnectOklahoma Multimodal Transportation Act, the Attorney
7 General is empowered and it shall be the duty of the Attorney
8 General to take actions to collect any amounts due or owing the
9 fund. The Attorney General shall institute appropriate proceedings
10 to compel the defaulting party and its officers, agents, and
11 employees to cure the default. Jurisdiction of any proceedings shall
12 be in the district court of Oklahoma County.

13 SECTION 10. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 430 of Title 69, unless there is
15 created a duplication in numbering, reads as follows:

16 A. There is hereby created the ConnectOklahoma Final Review
17 Board which shall consist of five (5) members, who shall be
18 appointed by the Governor as follows:

19 1. One member may be appointed from a list of three persons
20 submitted by the Department of Commerce;

21 2. One member may be appointed from a list of three persons
22 submitted by the Department of Transportation;

23

24

1 3. One member may be appointed from a list of three persons
2 submitted by the Oklahoma Center for the Advancement of Science and
3 Technology;

4 4. One member may be appointed from a list of three persons
5 submitted by the State Bond Advisor; and

6 5. One member may be appointed from a list of three persons
7 submitted by the State Department of Health.

8 B. Members of the Final Review Board shall receive no salary
9 but, as funding is available shall be entitled to be reimbursed for
10 necessary travel expenses pursuant to the State Travel Reimbursement
11 Act. The members of the Final Review Board may be removed by the
12 Governor for inefficiency, neglect of duty, or malfeasance in office
13 in the manner provided by law for the removal of officers not
14 subject to impeachment.

15 C. The Department of Transportation shall provide staff to
16 perform the designated duties of the Final Review Board. The
17 Department shall provide meeting space for the Final Review Board.

18 D. The Final Review Board shall, within thirty (30) days after
19 its appointment, organize, adopt a seal, and make such rules and
20 regulations for its administration, not inconsistent herewith, nor
21 inconsistent with, or contrary to, any act of the Congress of the
22 United States or regulations promulgated or standards established
23 pursuant thereto, as it may deem expedient and from time to time
24 amend such rules and regulations. At such organizational meeting,

1 it shall elect from among its members a chair, a vice chair, and a
2 secretary, to serve for one (1) year, and annually thereafter shall
3 elect such officers, all to serve until their successors are
4 appointed and qualified. The Final Review Board shall schedule
5 meetings at a convenient time and place as they become necessary.
6 Three members shall constitute a quorum, and no action shall be
7 taken by less than a majority of the Final Review Board. Special
8 meetings may be called as provided by the rules and regulations of
9 the Final Review Board. Regular meetings shall be held at a
10 designated conference area provided by the Department of
11 Transportation, but whenever the convenience of the public or of the
12 parties may be promoted, or delay or expense may be prevented, the
13 Final Review Board may hold meetings, hearings, or proceedings at
14 any other place designated by it.

15 E. The Final Review Board shall have the power and duty to:

- 16 1. Provide input to the Department of Transportation on
17 statewide and regional policies and actions that impact the state's
18 marine, rail and public transit infrastructure development;
- 19 2. Provide input on the development of policy and planning
20 documents that impact freight mobility;
- 21 3. Make appointments to ConnectOklahoma Regional Committees;
- 22 4. Make appointments to ConnectOklahoma Modal Committees;
- 23 5. Refer transportation project applications to Regional and
24 Modal Committees for consideration; and

1 6. Make recommendations for approval to the Department of
2 Transportation of applications for ConnectOklahoma transportation
3 projects. Recommendations for approval shall only be made by the
4 Final Review Board if the loan or grant application was previously
5 deemed to be an eligible project and recommended by the applicable
6 Regional and Modal Committee tasked with reviewing the application.
7 When making recommendations, the Final Review Board shall give
8 preference to eligible projects with the highest tier ranking when
9 scored under the process provided in subsection B of Section 7 of
10 this act. The Final Review Board shall prioritize the
11 recommendation for approval of eligible projects so that not less
12 than ten percent (10%) of the total funds invested from the
13 ConnectOklahoma Revolving Fund over a five-year period be invested
14 in each of Oklahoma's five (5) Congressional Districts as they exist
15 on November 1, 2014.

16 F. The Final Review Board shall report in writing to the
17 Governor, the Speaker of the Oklahoma House of Representatives and
18 the President Pro Tempore of the Oklahoma State Senate on or about
19 January 31 of each year. The report shall contain a summary of the
20 proceedings of the Final Review Board during the preceding fiscal
21 year, a detailed and itemized list of all transportation projects
22 taken under consideration by the Final Review Committee during the
23 preceding fiscal year, such other information as it may deem
24 necessary or useful, and any additional information which may be

1 requested by the Governor, the Speaker of the Oklahoma House of
2 Representatives or the President Pro Tempore of the Oklahoma State
3 Senate.

4 SECTION 11. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 431 of Title 69, unless there is
6 created a duplication in numbering, reads as follows:

7 A. 1. The ConnectOklahoma Final Review Board shall create and
8 appoint the membership of ConnectOklahoma Regional Committees as
9 follows:

- 10 a. a Committee to serve the first Congressional District
11 of Oklahoma,
- 12 b. a Committee to serve the second Congressional District
13 of Oklahoma,
- 14 c. a Committee to serve the third Congressional District
15 of Oklahoma,
- 16 d. a Committee to serve the fourth Congressional District
17 of Oklahoma, and
- 18 e. a Committee to serve the fifth Congressional District
19 of Oklahoma.

20 2. The Final Review Board shall appoint five (5) members to
21 each Committee who:

- 22 a. reside within the Congressional District that
23 corresponds to the committee appointment, and

24

1 b. were nominated for appointment to a Regional Committee
2 by the Department of Transportation.

3 B. 1. The ConnectOklahoma Final Review Board shall create and
4 appoint the membership of ConnectOklahoma Modal Committees as
5 follows:

- 6 a. a Committee to review marine transportation projects,
- 7 b. a Committee to review rail transportation projects,
- 8 c. a Committee to review transit transportation projects,
- 9 and
- 10 d. a Committee to review freight transportation projects.

11 2. The Final Review Board shall appoint five (5) members to
12 each Committee who:

- 13 a. (1) have experience related to planning,
14 construction, or financing transportation
15 projects in the Committee's subject area, or
- 16 (2) have experience related to economic development
17 or assessing tourism potential in the Committee's
18 subject area, and
- 19 b. were nominated for appointment to a Modal Committee by
20 the Department of Transportation.

21 C. The Committees shall meet as directed by the Final Review
22 Board and evaluate transportation project applications within the
23 Committees' regional or subject-area purview. The Committees shall
24 evaluate each transportation project application using the criteria

1 provided in Section 7 of this act, and return each written
2 application to the ConnectOklahoma Final Review Board with a written
3 recommendation of approval or rejection.

4 SECTION 12. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 2368.27 of Title 68, unless
6 there is created a duplication in numbering, reads as follows:

7 A. Each state individual income tax return form for tax years
8 which begin after December 31, 2014, and each state corporate tax
9 return form for tax years beginning after December 31, 2014, shall
10 contain a provision to allow a donation from a tax refund for the
11 benefit of the ConnectOklahoma Mass Transit and Infrastructure
12 Revolving Fund.

13 B. Except as otherwise provided for in this section, all monies
14 generated pursuant to subsection A of this section shall be paid to
15 the State Treasurer by the Oklahoma Tax Commission and placed to the
16 credit of the ConnectOklahoma Mass Transit and Infrastructure
17 Revolving Fund.

18 C. If a taxpayer makes a donation pursuant to subsection A of
19 this section in error, such taxpayer may file a claim for a refund
20 at any time within three (3) years from the due date of the tax
21 return. Such claims shall be filed pursuant to the provisions of
22 Section 2372 of Title 68 of the Oklahoma Statutes. Prior to the
23 apportionment set forth in this section, an amount equal to the
24 total amount of refunds made pursuant to this subsection during any

1 (1) year shall be deducted from the total donations received
2 pursuant to this section during the following year and such amount
3 deducted shall be paid to the State Treasurer and placed to the
4 credit of the Income Tax Withholding Refund Account.

5 SECTION 13. AMENDATORY 69 O.S. 2011, Section 403, as
6 amended by Section 1, Chapter 356, O.S.L. 2012 (69 O.S. Supp. 2013,
7 Section 403), is amended to read as follows:

8 Section 403. A. The Transportation Commission is hereby
9 authorized to create a "State Infrastructure Bank", pursuant to the
10 federal National Highway System Designation Act of 1995 and the
11 Transportation Infrastructure Finance and Innovation Act of 1998,
12 for the purpose of pooling available federal, private and state
13 appropriated or revolving fund monies or credit assistance
14 specifically authorized by the Legislature for such use. The
15 Commission shall be the instrumentality to make application to the
16 Federal Highway Administration for the capitalization grant which is
17 to be placed in the State Infrastructure Bank. The Commission shall
18 be the instrumentality to submit a Letter of Interest to the Federal
19 Highway Administration for credit assistance pursuant to the
20 Transportation Infrastructure Finance and Innovation Act of 1998.
21 The Commission shall adopt all rules necessary to implement and
22 effectuate the provisions of this act.

23 B. The State Infrastructure Bank authorized by this section may
24 be utilized by the various counties of Oklahoma for pooling

1 available federal, private and state appropriated or revolving fund
2 monies or credit assistance specifically authorized by the
3 Legislature for capital improvements. The various counties of
4 Oklahoma are authorized to receive and repay monies from the
5 Department of Transportation revolving ~~fund~~ funds designated as the
6 "State Infrastructure Bank Revolving Fund" and the "ConnectOklahoma
7 Mass Transit and Infrastructure Revolving Fund" for the ~~purpose~~
8 purposes specifically authorized by the Legislature.

9 C. The Transportation Commission shall be authorized to make
10 loans from the State Infrastructure Bank to qualified applicants as
11 provided ~~in this act~~ by law in order to implement the provisions of
12 the National Highway System Designation Act of 1995 ~~and,~~ the
13 Transportation Infrastructure Finance and Innovation Act of 1998,
14 and the ConnectOklahoma Multimodal Transportation Act.

15 SECTION 14. AMENDATORY 69 O.S. 2011, Section 409, is
16 amended to read as follows:

17 Section 409. A. By May 1, 1999, the Oklahoma Transportation
18 Commission shall provide financial review guidelines to the Oklahoma
19 Department of Transportation for use by the Department in
20 preliminary evaluations of transportation projects. The evaluation
21 shall include such information as required by the Department and the
22 Commission, including but not limited to:

- 23 1. Cost of the proposed transportation project;
- 24 2. Amount of the loan requested;

1 3. Repayment schedule; and

2 4. Existing and anticipated assets and liabilities of the
3 applicant.

4 B. Upon a determination of the Department that an entity meets
5 the criteria to receive funding pursuant to the provisions of this
6 act, the Department shall forward to the Commission the preliminary
7 application for an initial financial review.

8 C. Upon receipt of the preliminary application, the Commission
9 shall prepare an initial financial review of the entity based upon:

10 1. The documents submitted by the Department and any additional
11 information requested by the Commission through the Department,
12 necessary to make a financial review of such entity; and

13 2. The proposed loan amount and interest rate for which the
14 entity qualifies.

15 Upon conclusion of the initial financial review, the Commission may
16 either recommend approval or rejection of the proposed loan.

17 D. The Commission shall return the preliminary application to
18 the Department with a written recommendation of approval or
19 rejection. If the Commission recommends rejection, the written
20 recommendation shall include the reason for the rejection. The
21 Commission shall forward a written copy of the rejection notice to
22 the entity. The entity may then be allowed to modify any such
23 documents in order to comply with the requirements of the Commission
24

1 and may resubmit the necessary financial documents to the
2 Department.

3 E. If the Commission recommends approval, the Commission shall
4 notify the Department of the acceptance. Upon receipt of the notice
5 and upon approval of the planning documents by the Department, the
6 Department shall notify the entity of the approval and request the
7 entity to prepare and submit the final loan application and a
8 nonrefundable loan application processing fee in the amount of Five
9 Hundred Dollars (\$500.00).

10 F. Upon a determination of compliance with the state and
11 federal laws, the Department is authorized to approve, refer and
12 forward the final loan application and necessary documents to the
13 Commission with the recommendation that a loan be made to the
14 eligible entity ~~pursuant to the federal National Highway System~~
15 ~~Designation Act of 1995~~ from the State Infrastructure Bank Revolving
16 Fund pursuant to the federal National Highway System Designation Act
17 of 1995 or the ConnectOklahoma Multimodal Transportation Act.

18 G. Upon review of the final loan application and applicable
19 documents, the Commission shall either approve or reject the loan
20 application. The Commission may request additional information from
21 the applicant or the Department in order to complete the financial
22 review of the application for the loan. The Commission shall notify
23 the applicant of any rejection of the final loan application.
24 Notification of approval of such entity for a loan shall be sent to

1 the Department and the Department shall notify the applicant. The
2 Department shall have the authority to grant final approval for
3 disbursement of loan proceeds by the State Infrastructure Bank and
4 to present the proceeds at the closing of the loan. Upon request
5 for disbursement of funds from the account pursuant to the
6 provisions of this act, the Commission shall provide for the release
7 of the loan proceeds.

8 H. Payment on loans shall be made to the State Infrastructure
9 Bank as provided in the loan documents.

10 SECTION 15. AMENDATORY 66 O.S. 2011, Section 304, as
11 amended by Section 1, Chapter 377, O.S.L. 2013 (66 O.S. Supp. 2013,
12 Section 304), is amended to read as follows:

13 Section 304. A. The Department of Transportation is hereby
14 authorized and empowered:

15 1. To acquire, construct, reconstruct, repair, replace, operate
16 and maintain railroad rights-of-way and trackage projects at such
17 locations and on such routes as it shall determine to be feasible
18 and economically sound;

19 2. To enter into agreements with the owners of operating
20 railroads for the acquisition and/or use of railroad rights-of-way
21 and trackage on such terms, conditions, rates or rentals as the
22 Department may consider to be in the best interests of the state;

23 3. To enter directly into agreements with owners of operating
24 railroads or persons intending to operate as common carriers by rail

1 to sell, lease, or sell by lease-purchase agreement any state-owned
2 railroad property on such terms, conditions or amounts as the
3 Department may consider to be in the best interests of the state and
4 to promote the purposes of the Railroad Revitalization Act;

5 4. Prior to the sale of any railroad asset owned by the State
6 of Oklahoma or the Department of Transportation, a process of
7 request for proposal shall be initiated by the Department of
8 Transportation with consultation by the Office of Management and
9 Enterprise Services. Upon the issue date of a request for proposal
10 regarding the sale of any railroad asset owned by the State of
11 Oklahoma or the Department of Transportation, interested parties
12 will have no less than ninety (90) days to provide a response.
13 Following the close of the ninety-day response period, the
14 Department of Transportation will conduct an evaluation of all
15 submitted proposals, utilizing all available resources, and the
16 Department of Commerce shall conduct an economic impact and/or
17 activity study of all proposals. The Secretary of Transportation,
18 Secretary of Finance, Secretary of Commerce, Secretary of
19 Agriculture, and Secretary of Energy shall be responsible for
20 preparing a recommendation to the Transportation Commission, based
21 on its evaluation of all submitted proposals including the results
22 of the economic impact and/or activity study, provided the
23 recommendation meets all other statutory requirements needed for
24 action by the Commission. The Secretary of Transportation,

1 Secretary of Finance, Secretary of Commerce, Secretary of
2 Agriculture, and Secretary of Energy will have up to ninety (90)
3 days, upon the closing date of the request for proposal, to present
4 its recommendation to the Transportation Commission. The
5 Transportation Commission will be responsible for determining if the
6 sale of railroad assets within its jurisdiction is in the best
7 interests of the State of Oklahoma and for authorizing the sale of
8 such assets. If a determination is rendered by the Transportation
9 Commission that the sale of any railroad asset within its
10 jurisdiction is appropriate, notification must be made to the
11 Speaker of the House of Representatives and the President Pro
12 Tempore of the Senate in writing prior to the Commission meeting
13 where final action will take place. All proceeds from the sale
14 shall be deposited into the ~~Railroad Maintenance~~ ConnectOklahoma
15 Mass Transit and Infrastructure Revolving Fund;

16 5. To acquire and hold real or personal property in the
17 exercise of its powers for the performance of its duties as
18 authorized by this act. Surplus property may be disposed of by the
19 Department;

20 6. To acquire in the name of the Department, by purchase or
21 otherwise on such terms and conditions and in such manner as it may
22 deem proper, or by exercise of the right of condemnation, such
23 public or private lands and personalty, including public parks,
24 playgrounds, or reservations, or parts thereof or rights therein,

1 rights-of-way, trackage, property, rights, easements, and interests,
2 as it may deem necessary for carrying out the provisions of the
3 Railroad Revitalization Act;

4 7. To make and enter into all contracts and agreements
5 necessary or incidental to the performance of its duties and the
6 execution of its powers under the Railroad Revitalization Act, and
7 to employ rail planning and management consultants, consulting
8 engineers, attorneys, accountants, construction and financial
9 consultants, superintendents, managers, and such other employees and
10 agents as may be necessary in its judgment, and to fix their
11 compensation; provided, that all such expenses shall be payable
12 solely from funds made available under and pursuant to the
13 provisions of the Railroad Revitalization Act or from revenues;
14 provided, further, no attorney employed by the Department, nor any
15 member of any law firm of which the member may be connected, shall
16 ever be paid any fee or compensation for any special or
17 extraordinary services;

18 8. To receive, accept and expend funds from the state, any
19 federal agency, or from private sources, for rail planning and for
20 administration of railroad assistance projects, and for or in aid of
21 the acquisition, construction, reconstruction, replacement, repair,
22 maintenance and operation of railroad rights-of-way and trackage and
23 for rail service continuation payments to railroad companies for
24 operating losses sustained by reasons of continuing service on a

1 line which may otherwise be abandoned or which may experience a
2 reduced level of service not in the public interest, where such
3 continuation of service is carried out under a written agreement
4 with the Department establishing the terms and conditions for such
5 payments, and to receive and accept funds, aid or contributions from
6 any source of either money, property, labor or other things of
7 value, to be held, used and applied only for the purposes for which
8 such funds, aid or contributions may be made;

9 9. To adopt such rules and to do any and all things necessary
10 to comply with rules, regulations or requirements of the United
11 States Department of Transportation, any successor thereof, the
12 Surface Transportation Board or any federal agency administering any
13 law enacted by the Congress of the United States or having funds
14 available for the purpose of the Department that are not
15 inconsistent with or contrary to the prohibitions and restrictions
16 of Oklahoma law or public interest;

17 10. To expend, not to exceed twenty percent (20%) of the funds
18 available in the Railroad Maintenance Revolving Fund during any one
19 (1) year, at locations approved by the Oklahoma Corporation
20 Commission, such Railroad Maintenance Revolving Fund monies as may
21 be budgeted by the Department of Transportation for the purposes of
22 installing signal lights, gate arms, or other active warning devices
23 where any public road, street, or highway crosses a railroad right-
24 of-way; provided, however, nothing in this act shall negate, change,

1 or otherwise modify any existing statutory or common law duty of a
2 railroad company;

3 11. To expend income and funds from the Railroad Maintenance
4 Revolving Fund in the exercise of any or all of the foregoing
5 powers; and

6 12. To do all things necessary or convenient to carry out the
7 powers expressly granted in this act.

8 B. It shall be unlawful for any member, officer or employee of
9 the Department to transact with the Department, either directly or
10 indirectly, any business for profit of such member, officer or
11 employee; and any person, firm or corporation knowingly
12 participating therein shall be equally liable for violation of this
13 provision.

14 The term "business for profit" shall include, but not be limited
15 to, the acceptance or payment of any fee, commission, gift, or
16 consideration to such member, officer or employee.

17 Violation of this provision shall constitute a felony and upon
18 conviction shall be punishable by incarceration in the State
19 Penitentiary for a term not to exceed five (5) years or by a fine of
20 not less than Five Hundred Dollars (\$500.00) and not more than Five
21 Thousand Dollars (\$5,000.00), or by both such imprisonment and fine.

22 C. All meetings of the Department shall be open public
23 meetings, and all records shall be public records, except when
24 considering personnel.

1 SECTION 16. AMENDATORY 66 O.S. 2011, Section 309, is
2 amended to read as follows:

3 Section 309. There is hereby created in the State Treasurer's
4 office a revolving fund for the Department, to be designated the
5 Oklahoma Railroad Maintenance Revolving Fund. The fund shall be
6 composed of all revenues generated by the provisions of Sections
7 2201 et seq. of Title 68 of the Oklahoma Statutes, which are,
8 beginning July 1, 1978, henceforth levied for and dedicated to the
9 implementation of the provisions of this act together with any
10 federal grants, or financial assistance payments or contributions by
11 any state or agency thereof or any authority constituted by a state,
12 ~~or by private donation or the proceeds from any rail property sale~~
13 ~~or payments for the use of any rail property and any accumulated~~
14 ~~interest thereon.~~ No state funds except those appropriated for the
15 purposes of this act shall be expended by the Department of
16 Transportation in furtherance of the provisions of this act.

17 SECTION 17. This act shall become effective November 1, 2014.

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19 54-2-10168 JM 02/19/14

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