

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 SENATE BILL 158

By: Anderson

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6 AS INTRODUCED

7 An Act relating to the State Regents for Higher  
8 Education master lease program; stating legislative  
9 findings; amending 70 O.S. 2011, Section 3206.6a,  
10 which relates to the master lease program; requiring  
11 legislative approval for the issuance of certain  
12 revenue bonds; prohibiting such bonds from becoming a  
13 debt of the state; authorizing the Attorney General  
14 and Supreme Court of Oklahoma to review such bonds;  
15 repealing 70 O.S. 2011, Section 3206.6, which relates  
16 to establishment of the master lease program;  
17 providing for noncodification; providing an effective  
18 date; and declaring an emergency.

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

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

22 The master lease personal property and real property programs  
23 were designed to circumvent the requirement that the Oklahoma  
24 Legislature vote to affirmatively approve the issuance of debt for  
25 Oklahoma's public colleges and universities. The Oklahoma  
26 Legislature acknowledges that the Oklahoma State Regents for Higher  
27 Education have issued more than Six Hundred Twenty-five Million  
28 Dollars (\$625,000,000.00) in bond indebtedness under the master

1 lease personal property and real property programs since 2002  
2 without an affirmative vote approving the issuance of any of the  
3 bonds by the Oklahoma Legislature. The Oklahoma Legislature also  
4 acknowledges that the Oklahoma Attorney General through Attorney  
5 General Opinion 2012-23 has authorized, again without an affirmative  
6 vote of the Oklahoma Legislature, the issuance of an additional Two  
7 Hundred Fifty Million Dollars (\$250,000,000.00) of new debt under  
8 the master lease personal property and real property programs. As a  
9 result of the Attorney General's opinion, in the span of ten (10)  
10 years, the master lease programs have not been authorized to issue  
11 nearly One Billion Dollars (\$1,000,000,000.00) in bond indebtedness  
12 without a single affirmative vote of the Oklahoma Legislature.  
13 Furthermore, according to Attorney General Opinion 2012-23, there is  
14 no current limit to the amount of debt that can be issued under the  
15 master lease programs. In addition, there have been recent attempts  
16 to fund projects through the master lease programs for other state  
17 agencies in order to avoid the scrutiny of the Oklahoma Legislature.  
18 Therefore, the Oklahoma Legislature believes that significant  
19 changes must be made to protect the taxpayers of Oklahoma from  
20 potential abuse of the master lease programs in the future.

21 The Oklahoma Legislature approves the issuance of the prior debt  
22 incurred under the master lease personal property and real property  
23 programs; however, the Oklahoma Legislature shall require that any  
24 future bonds that are issued under the master lease personal

1 property or real property programs be specifically approved by the  
2 Oklahoma Legislature and the Governor of Oklahoma.

3 SECTION 2. AMENDATORY 70 O.S. 2011, Section 3206.6a, is  
4 amended to read as follows:

5 Section 3206.6a. A. The Oklahoma State Regents for Higher  
6 Education may establish a master lease program to finance the  
7 acquisition of items of personal property, or refinance or  
8 restructure outstanding equipment lease obligations as may be  
9 required by or useful to institutions and entities within The  
10 Oklahoma State System of Higher Education in order to achieve cost-  
11 saving efficiencies. The funds used by the Regents for the purposes  
12 authorized by this section shall be available for lease transactions  
13 having a minimum value of Fifty Thousand Dollars (\$50,000.00) and a  
14 maximum value of Ten Million Dollars (\$10,000,000.00). Such leases  
15 shall have a term that is no more than the useful life of the  
16 personal property acquired by institutions pursuant to the  
17 provisions of this section, and, in no event, more than twenty (20)  
18 years. The amount of transactions financed in a calendar year  
19 through the personal property master lease program shall not exceed  
20 Fifty Million Dollars (\$50,000,000.00).

21 B. The Oklahoma State Regents for Higher Education may finance  
22 acquisition of or improvements to, or refinance or restructure  
23 outstanding obligations for real property pursuant to the master  
24 lease program. The funds used by the Regents for the purposes

1 authorized by this section shall be available for lease transactions  
2 having a term that is no more than the useful life of any real  
3 property or improvements acquired by institutions pursuant to the  
4 provisions of this section, and in no event, more than thirty (30)  
5 years.

6 C. The projects approved under the master lease programs shall  
7 be for the primary benefit of the students and faculty of Oklahoma's  
8 colleges and universities.

9 ~~B. D. After the effective date of this act July 1, 2010, any~~  
10 ~~bonds issued pursuant to this section shall be subject to the~~  
11 ~~approval of the Legislature as provided by this subsection. The~~  
12 ~~Oklahoma State Regents for Higher Education shall submit an itemized~~  
13 ~~list of the proposed projects and the terms of the financing to the~~  
14 ~~Governor, the Speaker of the House of Representatives and the~~  
15 ~~President Pro Tempore of the State Senate within the first seven (7)~~  
16 ~~legislative days of an annual legislative session and prior to the~~  
17 ~~time any such obligations are sold. The submission to such elected~~  
18 ~~officials shall occur upon the same date for purposes of computing~~  
19 ~~the time within which action must be taken as further prescribed by~~  
20 ~~this subsection. The Legislature shall have a period of forty-five~~  
21 ~~(45) calendar days from the date on which the information is~~  
22 ~~submitted to pass a concurrent resolution disapproving all or part~~  
23 ~~of the proposed issuance. If the Legislature does not disapprove~~  
24 ~~the proposed issuance by concurrent resolution by the end of the~~

1 ~~forty fifth day following the date upon which the proposed issuance~~  
2 ~~is submitted, the proposed issuance shall be deemed to have been~~  
3 ~~approved by the Legislature~~ legislative approval expressed by  
4 concurrent resolution shall be required prior to commencing any  
5 action in anticipation of issuance by the Oklahoma State Regents for  
6 Higher Education of revenue bonds authorized by this section. The  
7 provisions of this subsection shall not apply to revenue bonds  
8 issued for the purpose of refunding or defeasance of existing  
9 revenue bonds.

10 ~~C. The amount of transactions financed in a calendar year~~  
11 ~~through the real property master lease program authorized by this~~  
12 ~~section shall not exceed the combined total of:~~

13 ~~1. The submission described in subsection B of this section, or~~  
14 ~~portion thereof, approved by the Legislature;~~

15 ~~2. Any issuance for additional proposed individual projects~~  
16 ~~submitted by institutions under the coordination of the Oklahoma~~  
17 ~~State Regents for Higher Education and approved by the Legislature;~~  
18 ~~and~~

19 ~~3. Any projects approved by the Legislature in a prior calendar~~  
20 ~~year for which no financing action was taken in the prior calendar~~  
21 ~~year.~~

22 E. No bonds issued under the authorization of this section  
23 shall ever become an obligation or debt of the State of Oklahoma.

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1       F. All bonds issued hereunder shall have on the backs thereof  
2 the certificate required by Section 29 of Article X of the  
3 Constitution of Oklahoma. Such bonds shall be submitted to the  
4 Attorney General of Oklahoma for examination. Such bonds, when  
5 having been examined and certified as legal obligations by the  
6 Attorney General in accordance with such requirements as he or she  
7 may make, shall be incontestable in any court in the State of  
8 Oklahoma unless suit thereon shall be brought in a court having  
9 jurisdiction thereof within thirty (30) days from the date of such  
10 approval. Bonds so approved by the Attorney General shall be prima  
11 facie valid and binding obligations according to their terms, and  
12 the only defense which may be offered thereto in any suit instituted  
13 after such thirty-day period shall have expired shall be forgery,  
14 fraud or violation of the Constitution.

15       G. The Oklahoma State Regents for Higher Education are  
16 authorized in their discretion to file an application with the  
17 Supreme Court of Oklahoma for the approval of any series of bonds to  
18 be issued hereunder, and exclusive original jurisdiction is hereby  
19 conferred upon the Supreme Court to hear and determine each such  
20 application. It shall be the duty of the Court to give such  
21 applications precedence over the other business of the Court and to  
22 consider and pass upon the applications and any protests which may  
23 be filed thereto as speedily as possible. Notice of the hearing on  
24 each application shall be given by a notice published in a newspaper

1 of general circulation in the state, that on a day named, the State  
2 Regents will ask the court to hear its application and approve the  
3 bonds. Such notice shall inform all persons interested that they  
4 may file protests against the issuance of the bonds and be present  
5 at the hearing and contest the legality thereof. Such notice shall  
6 be published one time not less than ten (10) days prior to the date  
7 named for the hearing, and the hearing may be adjourned from time to  
8 time in the discretion of the Court. If the Court shall be  
9 satisfied that the bonds have been properly authorized in accordance  
10 with the provisions of this section and that when issued they will  
11 constitute valid obligations in accordance with their terms, the  
12 Court shall render its written opinion approving the bonds and shall  
13 fix the time within which a petition for rehearing may be filed.  
14 The decision of the Court shall be a judicial determination of the  
15 validity of the bonds, shall be conclusive as to the State Regents,  
16 their officers and agents, and thereafter the bonds so approved and  
17 the revenues pledged to their payment shall be incontestable in any  
18 court in the State of Oklahoma.

19 SECTION 3. REPEALER 70 O.S. 2011, Section 3206.6, is  
20 hereby repealed.

21 SECTION 4. This act shall become effective July 1, 2013.

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

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