

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL NO. 1399

6 By: Hall

7 COMMITTEE SUBSTITUTE

8 An Act relating to state fiscal affairs; creating the  
9 Oklahoma Long-Range Capital Planning Legacy Fund;  
10 providing sources of funds; requiring the State  
11 Treasurer to appoint investment managers;  
12 establishing investment guidelines; authorizing  
13 realization of losses under certain circumstance;  
14 requiring income and returns to accrue to the balance  
15 of the fund; requiring annual report; providing for  
16 transfer of funds; requiring managers to maintain  
17 certain proportion of liquidity in the fund;  
18 providing for transfer amount upon insufficient  
19 liquidity; creating the State Asset Legacy Fund;  
20 providing sources of funds; providing for  
21 expenditures from fund; requiring expenditures to be  
22 detailed in certain data feed; creating the State  
23 Asset Legacy Commission; designating membership;  
24 requiring election of chair; providing for quorum;  
authorizing certain reimbursement of expenses;  
prescribing duties of the Commission; requiring  
development and updating of certain expenditure  
plans; requiring submission of plans; authorizing the  
promulgation of rules; requiring the Office of  
Management and Enterprise Services and the Deputy  
Treasurer for Debt Management to provide required  
staffing and assistance; requiring certain  
performance audit; amending 68 O.S. 2021, Section  
1353, as last amended by Section 2, Chapter 290,  
O.S.L. 2023 (68 O.S. Supp. 2023, Section 1353), which  
relates to the apportionment of sales tax revenue;  
providing apportionment to the Oklahoma Long-Range  
Capital Planning Legacy Fund; providing for  
codification; providing an effective date; and  
declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 34.602 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created in the State Treasury a fund to be known and designated as the "Oklahoma Long-Range Capital Planning Legacy Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of surplus monies and savings appropriated by the Legislature and all apportionments.

B. The State Treasurer shall appoint qualified investment managers to provide for the investment of the monies of the fund. The investments shall be consistent with the manner in which state retirement funds are invested. The risk of large losses shall be minimized by diversifying the investments in the fund, including the length of time of the investment, unless, under the circumstances, it is clearly prudent not to do so. The investment managers may sell investments and realize losses if such action is considered advantageous to longer-term return maximization.

C. The fund principal shall consist of monies which are deposited to the fund. Notwithstanding any other provisions of law, income and investment return on fund principal shall accrue to the fund.

1 D. For each fiscal year, the Treasurer shall make available a  
2 report on its website detailing the present value of the investments  
3 and assets in the Oklahoma Long-Range Capital Planning Legacy Fund  
4 and the increase in value from the previous fiscal year.

5 E. Except as provided for in subsection F of this section, upon  
6 a determination by the Treasurer, through the report provided  
7 pursuant to subsection D of this section, of the increase in the  
8 value of the Oklahoma Long-Range Capital Planning Legacy Fund, the  
9 State Asset Legacy Commission, created pursuant to Section 2 of this  
10 act, may make a request for transfer of up to forty percent (40%) of  
11 the increase in value of the fund, as determined by the Treasurer,  
12 not to exceed Seventy-five Million Dollars (\$75,000,000.00), to the  
13 State Asset Legacy Fund created pursuant to Section 2 of this act.  
14 For fiscal year 2025, subject to the availability of funds, the  
15 State Asset Legacy Commission may request an amount not to exceed  
16 Fifty Million Dollars (\$50,000,000.00) for transfer to the State  
17 Asset Legacy Fund.

18 F. Investment managers appointed pursuant to subsection B of  
19 this section shall maintain a reasonable proportion of liquid assets  
20 in the Oklahoma Long-Range Capital Planning Legacy Fund in order to  
21 facilitate any expected transfers requested pursuant to subsection E  
22 of this section. In the event the balance of the Oklahoma Long-  
23 Range Capital Planning Legacy Fund is insufficient or the cash  
24 available in the fund is insufficient due to lack of liquid assets

1 to make the transfers required pursuant to subsection E of this  
2 section, the entire balance available for transfer shall be  
3 transferred to the fund.

4 SECTION 2. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 909 of Title 62, unless there is  
6 created a duplication in numbering, reads as follows:

7 A. There is hereby created the State Asset Legacy Fund. The  
8 fund shall be a continuing fund, not subject to fiscal year  
9 limitations, and shall consist of monies designated for deposit from  
10 the Oklahoma Long-Range Capital Planning Legacy Fund created  
11 pursuant to Section 1 of this act. All monies accruing to the  
12 credit of the fund are hereby appropriated and may be expended  
13 exclusively for maintaining and repairing state-owned properties and  
14 buildings pursuant to the procedures set forth in subsection C of  
15 this section. Expenditures from the fund shall be made upon  
16 warrants issued by the State Treasurer against claims filed as  
17 prescribed by law with the Director of the Office of Management and  
18 Enterprise Services for approval and payment. Expenditures from the  
19 State Asset Legacy Fund shall be detailed in a data feed and made  
20 available through the data.ok.gov web portal.

21 B. There is hereby created the State Asset Legacy Commission to  
22 develop plans for expenditures from the State Asset Legacy Fund.  
23 The Commission shall consist of eleven (11) members as follows:

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1           1. The members appointed to the Long-Range Capital Planning  
2 Commission created pursuant to Section 901 of Title 62 of the  
3 Oklahoma Statutes;

4           2. The Chancellor of Higher Education or a designee; and

5           3. The Executive Director of the Oklahoma Tourism and  
6 Recreation Department or a designee.

7           A chair of the Commission shall be elected from its membership.

8 Six members of the Commission shall constitute a quorum. Members of  
9 the Commission shall serve without compensation, but shall be  
10 entitled to reimbursement, pursuant to the State Travel  
11 Reimbursement Act, for expenses incurred in the performance of their  
12 duties.

13           C. The Commission shall develop three distinct five-year plans  
14 to provide for expenditures from the State Asset Legacy Fund as  
15 follows:

16           1. For the maintaining and repairing of state-owned properties  
17 and buildings of public institutions of higher learning. Twenty-  
18 five percent (25%) of deposits to the State Asset Legacy Fund shall  
19 be expended pursuant to this plan, which shall be subject to the  
20 following limitations:

21           a. thirty percent (30%) of the planned expenditures shall  
22           be for public research universities, and

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1           b.     seventy percent (70%) of the planned expenditures  
2                     shall be for all other public institutions of higher  
3                     learning;

4           2.     For the maintaining and repairing of properties and  
5 buildings of state parks operated by the Oklahoma Tourism and  
6 Recreation Department. Fifteen percent (15%) of deposits to the  
7 State Asset Legacy Fund shall be expended pursuant to this plan; and

8           3.     For the maintaining and repairing of all other state-owned  
9 properties and buildings. Sixty percent (60%) of deposits to the  
10 State Asset Legacy Fund shall be expended pursuant to this plan.

11           D.     The plans created by the Commission pursuant to subsection C  
12 of this section shall supplement the existing plans created by the  
13 Long-Range Capital Planning Commission pursuant to Section 901 of  
14 Title 62 of the Oklahoma Statutes. The Commission shall biennially  
15 update each five-year plan. Upon the creation of the plans and upon  
16 each update to the plans, the plans shall be submitted by electronic  
17 means to the Governor, the President Pro Tempore of the Senate, and  
18 the Speaker of the House of Representatives.

19           E.     The Commission shall have the authority to promulgate rules  
20 and regulations necessary to implement the provisions of this act.

21           F.     The Office of Management and Enterprise Services, with the  
22 advice and assistance of the Deputy Treasurer for Debt Management,  
23 shall provide staffing for the Commission and other such assistance  
24 as the Commission may require.

1 G. The five-year plans created pursuant to this section shall  
2 be subject to performance audits by the Legislative Office of Fiscal  
3 Transparency upon request by the oversight committee created  
4 pursuant to Section 8013 of Title 62 of the Oklahoma Statutes.

5 SECTION 3. AMENDATORY 68 O.S. 2021, Section 1353, as  
6 last amended by Section 2, Chapter 290, O.S.L. 2023 (68 O.S. Supp.  
7 2023, Section 1353), is amended to read as follows:

8 Section 1353. A. It is hereby declared to be the purpose of  
9 the Oklahoma Sales Tax Code to provide funds for the financing of  
10 the program provided for by the Oklahoma Social Security Act and to  
11 provide revenues for the support of the functions of the state  
12 government of Oklahoma, and for this purpose it is hereby expressly  
13 provided that, revenues derived pursuant to the provisions of the  
14 Oklahoma Sales Tax Code, subject to the apportionment requirements  
15 for the Oklahoma Tax Commission and Office of Management and  
16 Enterprise Services Joint Computer Enhancement Fund provided by  
17 Section 265 of this title, shall be apportioned as follows:

18 1. Except as provided in ~~subsection~~ subsections C and D of this  
19 section, the following amounts shall be paid to the State Treasurer  
20 to be placed to the credit of the General Revenue Fund to be paid  
21 out pursuant to direct appropriation by the Legislature:

| Fiscal Year         | Amount |
|---------------------|--------|
| FY 2003 and FY 2004 | 86.04% |
| FY 2005             | 85.83% |

|   |   |         |
|---|---|---------|
| 1 | FY 2006                                 | 85.54%  |
| 2 | FY 2007                                 | 85.04%  |
| 3 | FY 2008 through FY 2022                 | 83.61%  |
| 4 | FY 2023 through FY 2027                 | 83.36%  |
| 5 | FY 2028 and each fiscal year thereafter | 83.61%; |

6       2. The following amounts shall be paid to the State Treasurer  
7 to be placed to the credit of the Education Reform Revolving Fund of  
8 the State Department of Education:

9           a. for FY 2003, FY 2004 and FY 2005, ten and forty-two  
10           one-hundredths percent (10.42%),

11           b. for FY 2006 through FY 2020, ten and forty-six one-  
12           hundredths percent (10.46%),

13           c. for FY 2021:

14           (1) for the month beginning July 1, 2020, through the  
15           month ending August 31, 2020, ten and forty-six  
16           one-hundredths percent (10.46%), and

17           (2) for the month beginning September 1, 2020,  
18           through the month ending June 30, 2021, eleven  
19           and ninety-six one-hundredths percent (11.96%),

20           and

21           d. for FY 2022 and each fiscal year thereafter, ten and  
22           forty-six one-hundredths percent (10.46%);

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1 3. The following amounts shall be paid to the State Treasurer  
2 to be placed to the credit of the Teachers' Retirement System  
3 Dedicated Revenue Revolving Fund:

| 4 Fiscal Year                              | Amount |
|--|--------|
| 5 FY 2003 and FY 2004                      | 3.54%  |
| 6 FY 2005                                  | 3.75%  |
| 7 FY 2006                                  | 4.0%   |
| 8 FY 2007                                  | 4.5%   |
| 9 FY 2008 through FY 2020                  | 5.0%   |
| 10 FY 2021:                                |        |
| 11 a. for the month beginning July         |        |
| 12 1, 2020, through the month              |        |
| 13 ending August 31, 2020                  | 5.0%   |
| 14 b. for the month beginning              |        |
| 15 September 1, 2020, through              |        |
| 16 the month ending June 30,               |        |
| 17 2021                                    | 3.5%   |
| 18 FY 2022                                 | 5.0%   |
| 19 FY 2023 through FY 2027                 | 5.25%  |
| 20 FY 2028 and each fiscal year thereafter | 5.0%;  |

21 4. a. ~~except~~ Except as otherwise provided in subparagraph b  
22 of this paragraph, for the fiscal year beginning July  
23 1, 2022, and for each fiscal year thereafter, eighty-  
24 seven one-hundredths percent (0.87%) shall be paid to

1 the State Treasurer to be further apportioned as  
2 follows:

3 (1) twenty-four percent (24%) shall be placed to the  
4 credit of the Oklahoma Tourism Promotion  
5 Revolving Fund, but in no event shall such  
6 apportionment exceed Five Million Dollars  
7 (\$5,000,000.00) in any fiscal year,

8 (2) forty-four percent (44%) shall be placed to the  
9 credit of the Oklahoma Tourism Capital  
10 Improvement Revolving Fund, but in no event shall  
11 such apportionment exceed Nine Million Dollars  
12 (\$9,000,000.00) in any fiscal year, and

13 (3) thirty-two percent (32%) shall be placed to the  
14 credit of the Oklahoma Route 66 Commission  
15 Revolving Fund, but in no event shall such  
16 apportionment exceed Six Million Six Hundred  
17 Thousand Dollars (\$6,600,000.00) in any fiscal  
18 year, and

19 b. ~~any~~ Any amounts which exceed the limitations of  
20 subparagraph a of this paragraph shall be placed to  
21 the credit of the General Revenue Fund; and

22 5. For the fiscal year beginning July 1, 2015, and for each  
23 fiscal year thereafter, six one-hundredths percent (0.06%) shall be  
24 placed to the credit of the Oklahoma Historical Society Capital

1 Improvement and Operations Revolving Fund, but in no event shall  
2 such apportionment exceed the total amount apportioned pursuant to  
3 this paragraph for the fiscal year ending on June 30, 2015. Any  
4 amounts which exceed the limitations of this paragraph shall be  
5 placed to the credit of the General Revenue Fund.

6 B. Provided, for the fiscal year beginning July 1, 2007, and  
7 every fiscal year thereafter, an amount of revenue shall be  
8 apportioned to each municipality or county which levies a sales tax  
9 subject to the provisions of Section 1357.10 of this title and  
10 subsection F of Section 2701 of this title equal to the amount of  
11 sales tax revenue of such municipality or county exempted by the  
12 provisions of Section 1357.10 of this title and subsection F of  
13 Section 2701 of this title. The Oklahoma Tax Commission shall  
14 promulgate and adopt rules necessary to implement the provisions of  
15 this subsection.

16 C. From the monies that would otherwise be apportioned to the  
17 General Revenue Fund pursuant to subsection A of this section, there  
18 shall be apportioned the following amounts:

19 1. For the month ending August 31, 2019:

20 a. Nine Million Six Hundred Thousand Dollars  
21 (\$9,600,000.00) to the credit of the State Highway  
22 Construction and Maintenance Fund created in Section  
23 1501 of Title 69 of the Oklahoma Statutes, and  
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1           b.    Two Million Dollars (\$2,000,000.00) to the credit of  
2                    the Oklahoma Railroad Maintenance Revolving Fund  
3                    created in Section 309 of Title 66 of the Oklahoma  
4                    Statutes;

5        2.    For the month ending September 30, 2019:

6           a.    Twenty Million Dollars (\$20,000,000.00) to the credit  
7                    of the State Highway Construction and Maintenance Fund  
8                    created in Section 1501 of Title 69 of the Oklahoma  
9                    Statutes, and

10          b.    Two Million Dollars (\$2,000,000.00) to the credit of  
11                    the Oklahoma Railroad Maintenance Revolving Fund  
12                    created in Section 309 of Title 66 of the Oklahoma  
13                    Statutes;

14        3.    For the month ending October 31, 2019:

15           a.    Twenty Million Dollars (\$20,000,000.00) to the credit  
16                    of the State Highway Construction and Maintenance Fund  
17                    created in Section 1501 of Title 69 of the Oklahoma  
18                    Statutes, and

19          b.    Two Million Dollars (\$2,000,000.00) to the credit of  
20                    the Oklahoma Railroad Maintenance Revolving Fund  
21                    created in Section 309 of Title 66 of the Oklahoma  
22                    Statutes;

23        4.    For the month ending November 30, 2019:

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1 a. Twenty Million Dollars (\$20,000,000.00) to the credit  
2 of the State Highway Construction and Maintenance Fund  
3 created in Section 1501 of Title 69 of the Oklahoma  
4 Statutes, and

5 b. Two Million Dollars (\$2,000,000.00) to the credit of  
6 the Oklahoma Railroad Maintenance Revolving Fund  
7 created in Section 309 of Title 66 of the Oklahoma  
8 Statutes; and

9 5. For the month ending December 31, 2019:

10 a. Twenty Million Dollars (\$20,000,000.00) to the credit  
11 of the State Highway Construction and Maintenance Fund  
12 created in Section 1501 of Title 69 of the Oklahoma  
13 Statutes, and

14 b. Two Million Dollars (\$2,000,000.00) to the credit of  
15 the Oklahoma Railroad Maintenance Revolving Fund  
16 created in Section 309 of Title 66 of the Oklahoma  
17 Statutes.

18 D. For fiscal year 2029 and subsequent fiscal years, before any  
19 other apportionment otherwise required by this section is made to  
20 the General Revenue Fund, there shall be apportioned to the Oklahoma  
21 Long-Range Capital Planning Legacy Fund created pursuant to Section  
22 1 of this act the amount of Fifty Million Dollars (\$50,000,000.00).

23 SECTION 4. This act shall become effective July 1, 2024.  
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1 SECTION 5. It being immediately necessary for the preservation  
2 of the public peace, health or 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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