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OKLAHOMA'S STATE DEBT

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TABLE OF CONTENTS

	Page
LIST OF TABLES	v
 Chapter	
I. INTRODUCTION	1
II. GENERAL STATE DEBT, 1907-1940	25
III. GENERAL STATE DEBT, 1941-1956	78
IV. BONDED DEBT OF STATE INSTITUTIONS FOR HIGHER EDUCATION	135
V. BONDED DEBT OF STATE AGENCIES	199
VI. AGGREGATE STATE DEBT AND DEBT POLICY	256
VII. SUMMARY AND CONCLUSIONS	334
BIBLIOGRAPHY	343
APPENDIX	358

LIST OF TABLES

Table	Page
1. Outstanding Gross Long-Term, Short-Term, and Total Debt and Interest Expenditure of American State Governments, Selected Fiscal Years, 1902-1956	3
2. Financial Summary of Long-Term General Debt Issues of the State of Oklahoma, by Issue, 1907-1940	37
3. Gross Outstanding Funding Obligations, Public Building Bonds, and Total Long-Term General Debt of the State of Oklahoma, Biennially, 1908-1940	54
4. Surplus or Deficit in the General Revenue Fund, State of Oklahoma, Annually, 1930-1941	57
5. Financial Summary of Long-Term General Debt Issues of the State of Oklahoma, by Issue, 1941-1956	97
6. Receipts, Disbursements, and Surplus of the General Revenue Fund, State of Oklahoma, Annually, 1942-1946	99
7. Gross and Net Outstanding Long-Term General Debt of the State of Oklahoma, Annually, 1941-1956	105
8. Receipts, Disbursements, and Cash Balance of the Emergency Appropriation Fund, State of Oklahoma, Annually, 1947-1956	109

Table	Page
9. Appropriations by Oklahoma Legislature from Proceeds of Building Bonds of 1950 for New Construction and Modernization, by Function	117
10. Authorized Bond Issues of Oklahoma State Institutions for Higher Education, by Issue, 1907-1940	138
11. Financial Summary of Bond Issues of Oklahoma State Institutions for Higher Education, by Issue, 1907-1940	143
12. Original Bond Issues and Gross Outstanding Bonded Debt of Oklahoma State Institutions for Higher Education, Annual Totals, 1924-1940	160
13. Financial Summary of Bond Issues of Oklahoma State Institutions for Higher Education, by Issue, 1941-1956	169
14. Refunding Bond Issues of Oklahoma State Institutions for Higher Education, Annual Totals, 1946-1956	193
15. Original Bond Issues and Gross Outstanding Bonded Debt of Oklahoma State Institutions for Higher Education, Annual Totals, 1941-1956	197
16. Financial Summary of Bond Issues of Agencies of the State of Oklahoma, by Issue, 1907-1956	207
17. Gross Outstanding Bonded Debt of Agencies of the State of Oklahoma, Annually, 1938-1956	216
18. Cost of Turner Turnpike, by Item of Expense, as Re-Estimated, 1952	230
19. Estimated Net Revenue and Bond Service Requirements of Turner Turnpike, 1953-1990	234
20. Estimated Cost of Northeastern Turnpike, by Item of Expense	250

Table	Page
21. Estimated Net Revenue and Bond Service Requirements of Northeastern Turnpike, 1958-1993	251
22. Original Long-Term General and Self-Liquidating State Debt Issued in Oklahoma, Annual Totals, 1907-1956	257
23. Refunding of State Debt in Oklahoma, Annual Totals, 1907-1956	260
24. Gross Long-Term General, Self-Liquidating, and Total State Debt Outstanding in Oklahoma, Biennially, 1908-1940, and Annually, 1941-1956	262
25. Population, Annual Expenditure, and Net Change in Total Gross Outstanding Long-Term Debt of the State of Oklahoma, Biennially, 1908-1940 ...	265
26. Population, Annual Revenue, Annual Expenditure, and Net Change in Total Gross Outstanding Long-Term Debt of the State of Oklahoma, Biennially, 1942-1950, and Annually, 1951-1956	268
27. Total and Per Capita Gross Outstanding Long-Term State Debt of Oklahoma, in Current and Constant Dollars, Biennially, 1916-1956	272
28. Annual Total and Per Capita State Personal Income of Oklahoma, Biennially, 1932-1956	276
29. Bureau of Census Data on Total Gross Outstanding Long-Term Debt, Annual Interest Payments, and Total Net Outstanding Long-Term Debt of the State of Oklahoma, Biennially, 1942-1950, and Annually, 1951-1956	278
30. Original Long-Term State Debt Issued in Oklahoma, by Function, Annual Totals, 1907-1956	283
31. Gross Long-Term State Debt Outstanding in Oklahoma, by Function, Biennially, 1908-1940, and Annually, 1941-1956	288

Table	Page
32. Constitutional Limits on Incurrence of Debt by State Legislatures, by State, 1954	293
33. Per Capita Tax Revenue, General Expenditure, and Total Outstanding Debt of the Forty-Eight States, Grouped by Type of Constitutional Restriction on Borrowing, by State and by Group, Fiscal 1956	301
34. Gross Outstanding Nonguaranteed and Full Faith and Credit Debt as Percentages of the Total Gross Outstanding Long-Term Debt of the Forty-Eight States, Grouped by Type of Constitutional Restriction on Borrowing, by State and by Group, Fiscal 1956	309
35. Scheduled Maturities of Total Gross Long-Term Debt of the State of Oklahoma Outstanding in Fiscal 1957, Annually, 1957-1970	332

OKLAHOMA'S STATE DEBT

CHAPTER I

INTRODUCTION

Borrowing is an important method of providing funds for many functions of state government in the United States. In several recent years over 10 per cent of the aggregate expenditure of the forty-eight states was debt financed.¹ Although the extent of the practice varies from one jurisdiction to another, most of the states incurred substantial amounts of indebtedness in the postwar period.² New flotations and servicing of outstanding debt are conspicuous features of current American state finance.³

¹U.S., Bureau of the Census, Compendium of State Government Finances, 1957 (Washington: U.S. Government Printing Office, 1958), pp. 6-7.

²U.S., Bureau of the Census, Revised Summary of State Government Finances, 1942-1950 (Washington: U.S. Government Printing Office, 1953), pp. 6-53.

³Bureau of the Census, Compendium of State Government Finances, 1957, pp. 37 and 40.

Growth and Composition of State Debt

According to the data of the U.S. Bureau of the Census presented in Table 1, total state indebtedness has increased more than fifty-fold since the beginning of the twentieth century. Outstanding state obligations rose from \$230,000,000 in fiscal 1902 to slightly more than \$3,500,000,000 in fiscal 1940. This debt was reduced by about \$1,000,000,000 during World War II, but it expanded steadily over the postwar decade. At the end of fiscal 1956, as shown in Table 1, the indebtedness of the forty-eight states totaled almost \$13,000,000,000. These obligations represented less than 4 per cent of the aggregate public debt of the United States,⁴ but they equaled nearly 60 per cent of the total revenue of the states in fiscal 1956.⁵ Interest payments on state debt, as shown in Table 1, exceeded \$300,000,000 during the year.

⁴John A. Gorman, "Debt Changes in 1956," Survey of Current Business, XXXVII (May, 1957), 17-19. According to Gorman's estimates, gross public debt--including \$13,100,000,000 of state obligations--totaled \$348,500,000,000 in 1956. These data differ somewhat from other debt statistics but represent a consistent series. See Elwyn T. Bonnell and John A. Gorman, "Changes in Public and Private Debt," Survey of Current Business, XXXIII (September, 1953), 13-19; 24.

⁵U.S., Bureau of the Census, Compendium of State Government Finances, 1956 (Washington: U.S. Government Printing Office, 1957), pp. 6-7.

TABLE 1

OUTSTANDING GROSS LONG-TERM, SHORT-TERM, AND TOTAL DEBT
AND INTEREST EXPENDITURE OF AMERICAN STATE GOVERNMENTS,
SELECTED FISCAL YEARS, 1902-1956^a
(in millions)

Fiscal year	Long-term debt	Short-term debt	Total debt ^b	Interest
1902	\$ 221	\$ 9	\$ 230	\$ 10
1913	365	14	379	14
1922	1,101	30	1,131	45
1927	1,875	96	1,971	83
1932	2,597	235	2,832	114
1934	N.a. ^c	N.a. ^c	3,248	119
1936	3,167	246	3,413	124
1938	3,258	85	3,343	128
1940	3,275	315	3,590	130
1942	3,096	161	3,257	122
1944	2,768	8	2,776	101
1946	2,328	25	2,353	84
1948	3,568	108	3,676	86
1950	5,168	118	5,285	109
1952	6,640	235	6,874	144
1953	7,504	320	7,824	162
1954	9,317	283	9,600	193
1955	10,950	248	11,198	251
1956	12,643	247	12,890	311

^aSources: U.S., Bureau of the Census, Historical Statistics on State and Local Government Finances, 1902-1953 (Washington: U.S. Government Printing Office, 1955), p. 20; U.S., Bureau of the Census, Compendium of State Government Finances, 1956 (Washington: U.S. Government Printing Office, 1957), p. 7.

^bComponents may not add to totals because of rounding.

^cNot available.

As indicated in Table 1, long-term obligations have constituted the bulk of total state indebtedness throughout the twentieth century. Over 98 per cent of the total obligations outstanding in fiscal 1956 represented gross long-term debt. Approximately half of the gross long-term indebtedness was made up of nonguaranteed obligations.⁶ Constitutional restrictions on the issuance of full faith and credit obligations have been the principal cause of the growth of nonguaranteed debt.⁷ Total net long-term state indebtedness amounted to about \$11,000,000,000 at the end of fiscal 1956.⁸

Relative Size of Oklahoma's State Debt

Oklahoma's state debt, according to the Bureau of the Census, totaled almost \$207,000,000 at the end of fiscal 1956. At that time, only thirteen states had a higher per capita total indebtedness than Oklahoma. The per capita total debt of the state was almost \$15 above the national average. The Census data indicated that Oklahoma's

⁶Ibid., p. 7.

⁷H. K. Allen and Richard G. Axt, State Public Finance and State Institutions of Higher Education in the United States (New York: Columbia University Press, 1952), p. 154.

⁸Bureau of the Census, Compendium of State Government Finances, 1956, p. 7.

indebtedness, consisting altogether of long-term obligations, exceeded \$201,000,000 on a net basis. In fiscal 1956, with a per capita net long-term debt of \$91, Oklahoma ranked eleventh among the states on this basis. Approximately four-fifths of Oklahoma's outstanding debt was nonguaranteed.⁹

Statement of Objectives and Limitations

The major purpose of this study was to trace the growth of Oklahoma's state debt, issue by issue, over the entire period of statehood. The writer attempted to locate records of all bond issues proposed by state officials, the legislature, and the electorate and to secure summary financial data on all issues floated by the state and its agencies. An effort was made to compile continuous comparable series on outstanding indebtedness during the fifty year period.

A second objective was to assess the relative importance of debt financing in the state economy. This aim involved an examination of the relation between borrowing, revenue, and expenditure and an attempt to measure the burden of indebtedness over the years. The writer also sought to analyze debt issuance in terms of type and purpose of borrowing and to make a brief interstate comparison of debt

⁹Ibid., p. 41.

financing.

The development of constitutional and statutory debt controls was considered an important feature of state debt history. The circumvention of the constitutional debt limitation, in particular, was emphasized throughout the study. The final intention of the writer was to evaluate the policy of debt financing under the extant legal restrictions.

Chronologically, this study was limited to the period between 1907--the initial year of statehood for Oklahoma--and the end of the fiscal year 1956. No attempt was made to trace the growth of Territorial indebtedness, but the refunding of outstanding Territorial obligations by the state was included in the compilation of state debt statistics. For clarification, a few developments subsequent to the end of fiscal 1956 were noted in the text.

The scope of the study extends to all long-term state debt authorized by law through the action of the legislature or the electorate. The incurrence of short-term indebtedness was described only in those instances leading to the creation of long-term debt. Debt financing by political subdivisions was not mentioned except in an explanation of the operation

of public trusts.¹⁰

Bonds issued for governmental purposes without specific or general statutory authority were excluded from all tabulations of state debt. The only instances of this type of financing discovered by the writer were the flotations of nonprofit corporate affiliates of two state institutions for higher education. These issues were described in the text but were not treated as a form of state indebtedness.

In recounting the growth of Oklahoma's debt, the writer did not try to place any of the developments in general historical perspective. The study notes only those contemporary economic and political conditions with an immediate bearing on debt history. Nor was the project intended to emphasize the problems of budgetary or financial administration.¹¹ An extensive analysis of debt management was also considered to be beyond the scope of the study.¹²

¹⁰A study of local debt, in the opinion of the writer, would contribute greatly to the limited literature on Oklahoma public finance. The only thorough review of local financing in Oklahoma discovered by the writer was a work published in 1937: Robert K. Carr, State Control of Local Finance in Oklahoma (Norman: University of Oklahoma Press, 1937).

¹¹The studies cited below include several projects devoted to this aspect of state finance.

¹²Public debt management, particularly in recent years, appears to the writer to be another excellent area of research for students interested in Oklahoma finance.

Related and Similar Studies¹³

Several national studies of state indebtedness have been published since Oklahoma was admitted to the Union. One of the first, a publication of the Bureau of the Census, tabulated the development of each state debt from 1880 to 1913 and described specific issues over the last two decades of the period.¹⁴ In a work of 1914, Secrist analyzed changes in state constitutional debt limitations over the nineteenth and early twentieth centuries.¹⁵ In 1927 the National Association of Mutual Savings Banks summarized the borrowing powers and debt history of each state and briefly evaluated the debt policy of each government.¹⁶

State and local debt financing of permanent public

¹³These citations are merely exemplary of the extensive literature on American state debt financing. The listing was not intended to be exhaustive.

¹⁴U.S., Bureau of the Census, National and State Indebtedness and Funds and Investments, 1870-1913 (Washington: U.S. Government Printing Office, 1914), pp. 17-203.

¹⁵Horace Secrist, An Economic Analysis of the Constitutional Restrictions upon Public Indebtedness in the United States ("Bulletin of the University of Wisconsin: Economics and Political Science Series," Vol. VIII, No. 1; Madison: University of Wisconsin, 1914), pp. 7-53.

¹⁶National Association of Mutual Savings Banks, Critical Analysis of State Debts (New York: National Association of Mutual Savings Banks, 1927).

improvements was reviewed by Studensky in a volume published in 1930.¹⁷ A few years later Trull attempted to assess the fiscal resources and debt burden of each state in a project sponsored by Dun and Bradstreet.¹⁸ Ratchford's history of state indebtedness appeared in 1941.¹⁹ This book is considered the standard study of American state debts.²⁰ A summary of constitutional restrictions on state borrowing was compiled by the Tax Foundation in 1954.²¹

A number of national studies of nonguaranteed debt have appeared in the last two decades. An early work in this field was Knappen's survey of public revenue bond financing.²² Stewart and Lyon reviewed the history of state college debt

¹⁷Paul Studensky, Public Borrowing (New York: National Municipal League, 1930).

¹⁸Edna Trull, Resources and Debts of the Forty-Eight States, 1937 (New York: Dun and Bradstreet, Inc., 1937).

¹⁹B. U. Ratchford, American State Debts (Durham, N.C.: Duke University Press, 1941).

²⁰Letter from Lynden Mannen, Chief, Financial Compilation and Analysis Section, Governments Division, U.S. Bureau of the Census, Washington, D.C., June 1, 1955.

²¹The Tax Foundation, Inc., Constitutional Debt Control in the States (New York: The Tax Foundation, Inc., 1954).

²²Laurence S. Knappen, Revenue Bonds and the Investor (New York: Prentice-Hall, Inc., 1939).

financing in a study published in 1948.²³ Debt financing of state authorities was described by the Council of State Governments in a research project of 1953.²⁴

Among the studies of specific state debts published in the early twentieth century was Miller's history of Texas finance, which traced the growth of the Texas debt from 1836 to 1915.²⁵ In a series of monographs on state fiscal problems published between 1928 and 1931, the National Industrial Conference Board summarized public borrowing in New York,²⁶ Missouri,²⁷ and Massachusetts.²⁸ Between 1928 and 1939,

²³Robert Bruce Stewart and Roy Lyon, Debt Financing of Plant Additions for State Colleges and Universities (West Lafayette, Ind.: Purdue Research Foundation, 1948).

²⁴The Council of State Governments, Public Authorities in the States (Chicago: The Council of State Governments, 1953), pp. 9-36; 65-94.

²⁵Edmund Thornton Miller, A Financial History of Texas ("Bulletin of the University of Texas," No. 37; Austin: University of Texas Publications, 1916), pp. 59-82; 117-33; 149-52; 177-95; 229-39; 355-60.

²⁶National Industrial Conference Board, Inc., The Fiscal Problem in New York State (New York: National Industrial Conference Board, Inc., 1928), pp. 43-57.

²⁷National Industrial Conference Board, Inc., The Fiscal Problem in Missouri (New York: National Industrial Conference Board, Inc., 1930), pp. 43-80.

²⁸National Industrial Conference Board, Inc., The Fiscal Problem in Massachusetts (New York: National Industrial Conference Board, Inc., 1931), pp. 71-95.

graduate students compiled histories of the debts of Arkansas,²⁹ North Carolina,³⁰ Virginia,³¹ and Kentucky.³² Ratchford included case studies of the debts of Arkansas³³ and Tennessee³⁴ in American State Debts.

The first analysis of Oklahoma's debt was apparently in Blachly's study of state finance published in 1921.³⁵ In this work Blachly summarized the original constitutional debt restrictions and described the three initial bond issues of the state. Blachly co-authored another publication on Oklahoma finance which included a short section on the

²⁹William C. Evans, "The Public Debt of Arkansas: Its History from 1836 to 1885" (unpublished Master's thesis, University of Arkansas, 1928).

³⁰Benjamin U. Ratchford, "A History of the North Carolina Debt, 1712-1900" (unpublished Ph.D. dissertation, Duke University, 1932).

³¹William L. Grenoble, "A History of the Virginia State Debt" (unpublished Ph.D. dissertation, University of Virginia, 1938).

³²Allen B. Edwards, "A History of the Kentucky State Debt" (unpublished Master's thesis, Duke University, 1939).

³³Ratchford, American State Debts, pp. 383-406.

³⁴Ratchford, American State Debts, pp. 407-28.

³⁵F. F. Blachly, The Financial System of the State of Oklahoma ("University of Oklahoma Bulletin: Studies in Government and Administration," No. 3; Norman: University of Oklahoma, 1921), pp. 14-18.

public debt.³⁶ The Brookings Institution briefly surveyed state debt administration in a report on Oklahoma government published in 1935.³⁷

In 1940, just prior to the adoption of the "budget-balancing amendment," Weaver summarily reviewed the decisions of the state Supreme Court which nullified the original constitutional debt limitation.³⁸ Several years later Pray published a criticism of the state budget system in which he discussed the basic legal principles of debt financing in Oklahoma.³⁹ A constitutional research project of 1950

³⁶Frederick F. Blachly and Miriam E. Oatman, Some Problems in Oklahoma Finance ("University of Oklahoma Bulletin: Studies in Government and Administration," No. 4; Norman: University of Oklahoma, 1924), pp. 62-65.

³⁷The Institute for Government Research of the Brookings Institution, Report on a Survey of Organization and Administration of Oklahoma (Oklahoma City: Harlow Publishing Corp., 1935), pp. 273-77.

³⁸Findley Weaver, Oklahoma's Deficit (Norman: University of Oklahoma Press, 1940), pp. 50-59. The writer could find no similar review of cases decided subsequent to the adoption of the budget-balancing amendment. These opinions are described below in Chapters III, IV, and V.

³⁹Joseph C. Pray, Post-Appropriation Budgetary Control in Oklahoma (Norman, Okla.: By the author, 1946), passim. Pray's treatment of debt questions was brief, but his analysis of state budgetary legislation and procedure prior to 1947 impressed the writer as an outstanding contribution to the study of Oklahoma public finance. A minor mistake in his work regarding total specific college bond authorizations in the prewar period (compare Pray, p. 2, to

included two chapters touching on the subject of state indebtedness. One of these studies analyzed the problems of postwar budget administration,⁴⁰ and the other summarized legal provisions for the creation of debt by the state institutions for higher education.⁴¹ A recent publication of the University of Oklahoma Bureau of Government Research pointed out some of the current problems of state debt financing.⁴²

None of these latter studies, it may be noted, was devoted principally to an analysis of Oklahoma's state debt.

Table 10 in Chapter IV, below) was one of many errors of this sort encountered by the writer in secondary sources. Though contextually insignificant in many instances, they appeared to the writer to reflect a long-standing need for a more complete series of state debt statistics.

⁴⁰H. V. Thornton, "Budget Administration in Oklahoma," Oklahoma Constitutional Studies, dir. H. V. Thornton (Guthrie, Okla.: Co-Operative Publishing Co., 1950), pp. 176-98.

⁴¹William Ingler, "Institutions and Institutional Control," Oklahoma Constitutional Studies, dir. H. V. Thornton (Guthrie, Okla.: Co-Operative Publishing Co., 1950), pp. 283-95.

⁴²H. V. Thornton, Corbitt Rushing, and John Wood, Problems in Oklahoma State Government (Norman: University of Oklahoma Bureau of Government Research, 1957), pp. 83-95. This is a concise and frank statement of the major faults of the present state fiscal system. The estimate of the volume of self-liquidating bond issuance (*ibid.*, p. 93) exceeded the figure compiled by the writer (*infra*, Chapter VI, Table 22).

The writer was unable to find any detailed compilation of debt statistics for Oklahoma, other than the data of the Bureau of the Census,⁴³ or any comprehensive review of governmental debt financing over the whole period of statehood. The heavy volume of postwar borrowing, it appeared to the writer, indicated a need for a more complete account of state indebtedness.

Sources and Procedure

The primary legal sources for this study were the Oklahoma Constitution, the statutes, and the opinions of the state Supreme Court. Oklahoma Supreme Court decisions were carried in both the Oklahoma Reports and the Pacific Reporter until June, 1953, and in the latter source subsequent to that time. The cumulative summary of state elections compiled by

⁴³Discontinuities in the annual series of Census publications and major classification changes made from time to time by the agency seriously restrict the use of these data for historical studies such as this one. Moreover, the reports of the Bureau of the Census on individual states are brief and lacking in important financial and legal details. Early twentieth century Census publications are also known to have contained inaccuracies (Ratchford, American State Debts, p. 275). Data on proposed state debt issues have never been included in the Census reports. For a descriptive listing of Census publications on state finances, see U.S., Bureau of the Census, Historical Statistics on State and Local Government Finances, 1902-1953 (Washington: U.S. Government Printing Office, 1955), pp. 1-4.

the State Election Board provided official data on all referenda, petitions, and amendments concerning debt measures. Legal information on debt financing in other states was obtained from secondary sources in most instances.

Primary financial sources included the annual reports of the State Treasurer, the biennial reports of the State Auditor, and the biennial state budget document.⁴⁴ For the initial years of statehood, these records yielded only scanty information on state indebtedness. Moreover, continuous series were not available for the period prior to the mid-1920's, and copies of some of the Treasurer's reports for later years could not be located. It was thus not possible to compile complete annual series of data for the entire half-century.

⁴⁴In the initial years of statehood, the State Treasurer and the State Auditor issued both annual and biennial reports. None of these reports was cited in this study, however, as they contained no useable data on state indebtedness. Copies of the reports of the Treasurer and the Auditor for the period 1915-1925 could not be located. The state did not begin issuing budget documents until the 1920's. On the whole the most reliable of these sources proved to be the Auditor's report, but it contained only biennial debt statistics in most issues and was discontinued in 1946. For recent years, the biennial budget document provided the most accurate, if not detailed, information on state debt. As a primary source, the Treasurer's report had the advantage of being an annual publication; but many errors and omissions were discovered in the postwar issues.

Supplementary primary financial data were obtained from reports of state agencies and institutions. In some instances, the prospectuses for bond issues proved to be valuable sources of information. Through letters and personal interviews, the writer attempted to gather data not available elsewhere and to verify questionable items of material.

Secondary sources of financial information were consulted for data not reported in available primary material. The publications of the Bureau of the Census and of Moody's Investors Service were the major secondary financial sources utilized. In some instances, however, secondary data were rejected as being incomparable with the primary material. In those instances, the series were left incomplete. All financial data on states other than Oklahoma were derived from secondary sources.

A list of debt issues proposed between 1907 and 1956 was compiled from the statutes and the records of the State Election Board. The terms of each authorization--the amount, the rate of interest, the maturity, and provisions for retirement--were obtained from the relevant law, petition, constitutional amendment, or vitalizing act. For issues involving litigation, state Supreme Court cases were located

and briefed.⁴⁵ All bond flotations were then tabulated in a series of standardized summaries derived from primary financial reports. Issues rejected by the voters, invalidated by the Supreme Court, or not marketed for other reasons were summarized for inclusion in the text.

Debt issues were next classified by type and purpose, and the data on them were assembled in chronological order. Outstanding debt series were prepared to correspond with the categories of bond issues. Most of these series were tabulated on a biennial basis for the period 1907-1940, because of the paucity of available data, and on an annual basis for the period 1941-1956. Finally, debt issues and outstanding debt were totaled by type and purpose and these data were utilized in an analysis of aggregate debt financing.

In the compilation of Oklahoma financial data, numerous discrepancies were observed in primary material. Most of these differences were resolved through examination of alternative primary or secondary sources. In some cases

⁴⁵In the attempt to locate all Oklahoma Supreme Court opinions involving the subject of state debt, the writer relied on the indexes of case reports rather than on legal digests covering only leading decisions. However, digests and annotated constitutions and statutes were consulted as a check on the compilation of legal citations.

primary statistics were adjusted for obvious errors, such as erroneous addition, or for conformity to the definitions used in this study. Major discrepancies and adjustments were noted in the text and the tables.

Definition of Terms

In financial studies many terms have specialized meanings and must be arbitrarily restricted in usage. The following definitions were adapted from standard sources for use in this project:⁴⁶

1. Warrant: a draft on a state treasurer by an accounting officer to transfer money to a designated payee. A warrant resembles a check, but it does not indicate a bank of payment.

2. Nonpayable warrant: an interest-bearing obligation without any specific date of maturity issued in lieu of a warrant because of lack of funds. Technically, warrants are converted into nonpayable warrants through registration or endorsement by state fiscal officers.

3. Short-term debt: nonpayable warrants and other

⁴⁶Eric L. Kohler, A Dictionary for Accountants (Englewood Cliffs, N. J.: Prentice-Hall, Inc., 1952), passim; Bureau of the Census, Compendium of State Government Finances, 1957, pp. 60-68.

interest-bearing obligations with a maturity of one year or less.

4. Long-term debt: bonds, notes, or other interest-bearing obligations maturing more than one year from their date of issuance.

5. Funding: the conversion of short-term debt into long-term debt through an exchange of long-term obligations for short-term obligations, or the retirement of short-term debt out of the proceeds of a long-term debt issue.

6. Refunding: the issuance of new long-term obligations in exchange for outstanding long-term obligations, or the retirement of outstanding long-term debt out of the proceeds of another issue of long-term debt.

7. Original debt: all debt other than that issued for refunding existing indebtedness, including long-term obligations issued for the funding of short-term debt.⁴⁷

8. Par value: the nominal or face value of a security.

9. Discount: the excess of the par value of a security over the amount paid or received for it.

⁴⁷The refunding of outstanding Territorial obligations by the state government was tabulated as the issuance of original state debt.

10. Premium: the excess of the amount paid or received for a security over its par value.

11. Sinking fund: cash and investment assets set apart for the retirement of a debt.

12. Gross outstanding debt: the par value of all obligations remaining unpaid on a specified date, including those due on that date.

13. Net outstanding debt: gross outstanding debt minus the accumulated assets of sinking funds and other reserve funds specifically held for redemption of that debt.

14. General debt: obligations payable from taxes or dedicated revenue other than the income of debt-financed projects. Specifically, in Oklahoma debt history general debt includes all obligations initially payable from taxes or the income from public lands. The concept corresponds closely to that of "general obligation debt" used by the U.S. Bureau of the Census.⁴⁸

15. Revenue bonds: long-term obligations for

⁴⁸The Bureau of the Census defines general obligation debt as "long-term full faith and credit obligations other than those payable initially from nontax revenue" (Bureau of the Census, Compendium of State Government Finances, 1957, p. 62). Also, in the Census terminology, the credit of the state is "unconditionally pledged" to the payment of such debt. This criterion does not apply to the concept of general debt used in this study.

financing the construction or purchase of income-producing assets and payable solely or principally from the earnings of the assets.⁴⁹

16. Self-liquidating debt: debt created by issuance of revenue bonds. This concept differs somewhat from that of "nonguaranteed debt" used by the Bureau of the Census.⁵⁰

17. Indenture: a contract between the issuer of bonds and the bondholders, specifying the terms of an issue. Most bond issues involve a third party, the trustee, who is responsible for enforcing the rights of the bondholders set

⁴⁹This definition is explanatory rather than legally precise. For a more complete description of revenue obligations, see Knappen, pp. 1-21.

⁵⁰The Bureau of the Census defines nonguaranteed debt as "long-term debt payable solely from pledged specific sources--e.g., from earnings of revenue producing activities . . . or from specific nonproperty taxes" (Bureau of the Census, Compendium of State Government Finances, 1957, p. 65). Distinctions between the Census concepts of general obligation and nonguaranteed debt and the writer's concepts of general and self-liquidating debt were necessary for purposes of classification only. These distinctions were required in but seven instances of actual or proposed debt issuance. As a matter of fact, the Bureau of the Census apparently disregarded such differences in reporting the former obligations. A more significant disparity between the Census data and those of the writer involved the classification of debt issues not authorized by state law (infra, Chapter VI, p. 279, note 13). The writer readily concedes the de facto status of such obligations as state indebtedness, but the requirements of a consistent methodology dictated their exclusion from debt tabulations presented in this study.

forth in the indenture.

18. Term bonds: bonds which all mature on the same date.

19. Serial bonds: bonds comprising an issue which matures in installments over a period of years.

20. Callable bonds: bonds redeemable prior to maturity at the option of the issuer.

21. Coupon rate of interest: the nominal rate of interest paid on the par value of a bond or a bond issue. The coupon rate determines the amount of interest payable each year on outstanding obligations.

22. Effective rate of interest: the percentage interest cost to maturity of a debt issue. The effective rate reflects the discount or premium, if any, on the obligations.

23. Debt service: the payment of interest due on outstanding obligations, plus the retirement of principal amounts.

24. Default: the failure to pay interest or principal when due, or to meet other requirements specified in the indenture.

25. Bond rating: a relative measure of the investment quality of a bond issue assigned by a professional investment service. The ratings cited in this study were all taken from

the manuals of Moody's Investors Service. In this rating system, "Aaa" bonds represent the best quality obligations with the smallest degree of investment risk. "Aa" bonds are high quality securities with a somewhat greater long-term risk than "Aaa" obligations. Bonds rated "A" are higher medium grade obligations with many favorable investment attributes but are considered susceptible to impairment sometime in the future.⁵¹

Order of Chapters

As explained above, this study was organized chronologically, by type of debt. Chapter II traces the development

⁵¹Moody's Investors Service, Moody's Municipal and Government Manual, 1958 (New York: Moody's Investors Service, 1958), p. vi. This bond rating system includes six categories lower than the "A" classification. All of Oklahoma's obligations rated by the Service, though, received one of the first three ratings. The usual policy of the Service has been to rate only general debt issues. It should be noted that the ratings were cited in this study as applying to specific bond issues, whereas in reality the Service annually evaluates all outstanding general obligations of a state. In other words, the rating assigned to the state at the time of flotation of the bonds was cited as the rating of that issue. The earliest manual available, however, was for 1922. In other instances the rating for a year or so succeeding the date of issuance was cited, if the issue was not immediately listed by the Service. The method by which these ratings are derived and their importance as a determinant of the cost of state borrowing are explained in Maryland State Planning Commission, Management and Limits of the State Debt (Baltimore: Maryland State Planning Commission, 1953), pp. 11-14.

of general state debt from the first year of statehood to 1940. The third chapter describes the adoption of the budget-balancing amendment of 1941 and recounts the growth of general state indebtedness during the succeeding fifteen years. Chapters IV and V cover self-liquidating state debt. Chapter IV is a history of the bonded debt of the state institutions for higher education, and Chapter V surveys debt financing of state agencies. Data on total debt, revenue, and expenditure are analyzed in Chapter VI, and state borrowing policies are evaluated. The final chapter summarizes the study and presents conclusions and recommendations.

CHAPTER II

GENERAL STATE DEBT, 1907-1940

The original provisions of the Constitution of 1907 severely restricted the creation of state indebtedness in Oklahoma. The maximum outstanding state debt to be incurred without the approval of the electorate was limited to \$400,000, except in the event of invasion, insurrection, or war.¹ By 1940, however, the general obligations of the state exceeded \$25,000,000;² and none of this debt had been sanctioned by the voting public or issued in connection with any military emergency.³ These bonds represented the funding of nonpayable warrants and tax-anticipation notes, a procedure which, according to the Oklahoma Supreme Court, did

¹Oklahoma, Constitution, Art. X, secs. 23, 24, and 25.

²Infra, Table 3.

³Between 1907 and 1940, the electorate rejected three measures involving the issuance of general bonds (infra, pp. 50-53).

not constitute the creation of indebtedness.⁴ Prior to the passage of the "budget-balancing amendment" of 1941, such obligations formed the major portion of the total state debt of Oklahoma.⁵

Constitutional Debt Limitations

The first constitutional restrictions on state borrowing in the United States appeared in the 1840's at the end of the initial era of state-financed internal improvements.⁶ They "may be traced most directly to the failure of internal improvements, and to the lapse of the market for American securities in 1839 which resulted partly from debt repudiation by some of the states, and partly from the crisis of 1837."⁷ According to Ratchford:

⁴These decisions are discussed below, in conjunction with the specific bond issues of the period.

⁵The other obligations issued prior to 1940 included the Public Building Bonds of 1910-1911 (infra, pp. 39-44) and the revenue bonds of state institutions for higher education and the Grand River Dam Authority (infra, Chapters IV and V).

⁶Ratchford, American State Debts, pp. 121-22. Beginning around 1820, many states had borrowed heavily to finance banks, canals, railroads, and turnpikes (ibid., pp. 77-96).

⁷Secrist, p. 21.

Many taxpayers were rudely disillusioned by the developments of the 1830's and early 1840's. They saw how the abuse of state credit increased the burdens at the most inopportune time and led to over-expansion, waste, extravagance, and fraud. It was not surprising that they should demand safeguards to prevent the repetition of such events.⁸

Henry C. Adams believed that these initial restrictions on public debt reflected the rise of the laissez-faire policy in the states.⁹

Rhode Island adopted the first debt limitation in 1842, and eighteen other states had incorporated similar provisions into their constitutions by the beginning of the Civil War.¹⁰ In the 1870's, as a result of the flagrant misuse of state credit during the period of Reconstruction, several southern states revised their constitutions to limit the creation of debt.¹¹ When Oklahoma was admitted to the

⁸Ratchford, American State Debts, p. 121. For a detailed description of the financial difficulties which led to the imposition of the early constitutional restrictions on state debt, see Ratchford, American State Debts, pp. 96-120; and Secrist, pp. 13-31.

⁹Public Debts (New York: D. Appleton and Co., 1893), pp. 340-41. "It requires but slight acquaintance with the detailed control of great enterprises to lead one to perceive that any stricture upon the power to borrow money curtails the ability of a government to manage canals or railroads" (ibid., p. 340).

¹⁰Ratchford, American State Debts, p. 122.

¹¹Ibid., pp. 192-93. These states included Georgia, Louisiana, South Carolina, and Texas, according to Ratchford.

Union, there were only four states without some kind of constitutional restriction on state debt.¹²

The available records of the Oklahoma Constitutional Convention of 1907 include very little discussion of the provisions relating to public indebtedness.¹³ According to

Alabama also imposed a constitutional debt limit in the 1870's (Secrist, p. 36).

¹²Secrist, pp. 34-35. The states were Connecticut, Massachusetts, New Hampshire, and Vermont. However, the constitutions of six other states did not limit the debt which could be incurred for meeting "casual deficits" or paying "extraordinary expenses" (ibid., Appendix II).

¹³William H. Murray, President-elect of the Convention, told the delegates in his opening address: "One of the best means of advertising our State is by a system of low taxation. Let us limit the amount of bonds which can be issued so as to base them on the amount of taxable property in order that our children may not be burdened with the follies which we commit" (Proceedings of the Constitutional Convention of the Proposed State of Oklahoma [Muskogee, Okla.: Muskogee Printing Co., n.d.], pp. 23-24). In a letter to the members of the Convention, William Jennings Bryan suggested: "It may be well for you to put a constitutional limit to the length of time for which bonds can be issued. The present generation should not be permitted to burden future generations with a debt incurred for the benefit of those now living.

"In fixing the limit of public indebtedness a distinction should be drawn between indebtedness incurred for an improvement that yields no revenue and that incurred for an improvement that returns an annual income. . . . A higher limit of indebtedness may safely be allowed when the money expended is an investment which not only furnishes something which the people need, but yields an income sufficient to pay interest and retire the bonds" (ibid., p. 391). Two committees of the Convention submitted reports which included proposed constitutional debt restrictions. The Committee on

R. L. Williams, a member of the Convention and later Chief Justice of the Oklahoma Supreme Court, they were "substantially" taken from the constitutions of North Dakota and South Dakota.¹⁴ However, the creation of debt was more strictly limited in both these states than in Oklahoma. The Constitution of North Dakota, adopted in 1889, provided for a maximum debt of \$200,000 and prohibited any other indebtedness except in the event of invasion, insurrection, or

Revenue and Taxation recommended a debt limit of .25 per cent of the total taxable valuation of the state, under which the legislature, with the approval of the electorate, could incur debt for the construction of public buildings and public improvements ("Oklahoma Constitutional Convention Committee Reports, 1906-07," a bound volume in the Oklahoma State Historical Society Library, Oklahoma City, Report No. 48). The Committee on Public Debt and Public Works proposed that the legislature be prohibited from creating any debt--except to meet deficits, repel invasion, suppress insurrection, or defend the state in time of war--"unless the same shall be authorized by law for some single object or work to be distinctly specified therein" (*ibid.*, Report No. 60). Probably as a result of confusion over the jurisdiction of the two committees, the provisions for constitutional debt control were completely revised. See the "Proceedings and Debates of the Constitutional Convention of Oklahoma," on file in the Oklahoma State Historical Society Library, March 5, 1907, afternoon session, pp. 21-25. The transcripts of the proceedings and debates are incomplete, however; and there is no record of the sessions in which the Convention considered the restrictions which were finally adopted and incorporated into the Constitution.

¹⁴Bryan v. Menefee, State Treasurer, 21 Okl. 1, 95 P. 471 (1908).

war.¹⁵ The state debt of South Dakota, under the Constitution of 1889, was limited to \$100,000, including obligations contracted for "making public improvements."¹⁶ In substance, the controls on state debt included in the Oklahoma Constitution appear to have been common features of the constitutions in force in 1907.¹⁷

The relevant provisions of the Oklahoma Constitution were all incorporated into Article X, Revenue and Taxation. They included the following:

Sec. 2. The Legislature shall provide by law for an annual tax sufficient, with other resources, to defray the estimated ordinary expenses of the State for each fiscal year.

Sec. 3. Whenever the expenses of any fiscal year shall exceed the income, the Legislature may provide for levying a tax for the ensuing fiscal year, which, with other resources, shall be sufficient to pay the

¹⁵North Dakota, Constitution, Art. XII, sec. 182.

¹⁶South Dakota, Constitution, Art. XIII, sec. 2. The original debt provisions in the constitutions of both of these states were still in force in 1907 (Secrist, Appendix II).

¹⁷See Secrist, p. 32 and Appendix II. Twenty-eight constitutions in force in 1907 included dollar limits on state indebtedness, ranging from \$50,000 to \$1,000,000 for meeting casual deficits. In three states--Colorado, Idaho, and Wyoming--the debt limit was stated as a percentage of assessed valuation (ibid., Appendix II). Provisions for popular approval of bond issues in excess of the debt limit were also common, as well as prohibitions against the assumption of local debt and the lending of state credit to private corporations (ibid.).

deficiency, as well as the estimated ordinary expenses of the State for the ensuing year.

Sec. 4. For the purpose of paying the State debt, if any, the Legislature shall provide for levying a tax, annually, sufficient to pay the annual interest and principal of such debt within twenty-five years from the final passage of the law creating the debt.

Sec. 14. Taxes shall be levied and collected by general laws, and for public purposes only, except that taxes may be levied when necessary to carry into effect section thirty-one of the Bill of Rights. Except as required by the Enabling Act, the State shall not assume the debt of any county, municipal corporation, or political subdivision of the State, unless such debt shall have been contracted to defend itself in time of war, to repel invasion, or to suppress insurrection.

Sec. 15. The credit of the State shall not be given, pledged, or loaned to any individual, company, corporation, or association, municipality, or political subdivision of the State; nor shall the State become an owner or stockholder in, nor make donation by gift, subscription to stock, by tax, or otherwise, to any company, association, or corporation.

Sec. 16. All laws authorizing the borrowing of money by and on behalf of the State, county, or other political subdivision of the State, shall specify the purpose for which the money is to be used and the money so borrowed shall be used for no other purpose.

Sec. 23. The State may, to meet casual deficits or failure in revenues, or for expenses not provided for, contract debts; but such debts, direct and contingent, singly or in the aggregate, shall not, at any time, exceed four hundred thousand dollars, and the moneys arising from the loans creating such debts shall be applied to the purpose for which they were obtained or to repay the debts so contracted, and to no other purpose whatever.

Sec. 24. In addition to the above limited power to contract debts, the State may contract debts to repel invasion, suppress insurrection or to defend the State in war; but the money arising from the contracting of such debts shall be applied to the purpose for which it was raised, or to repay such debts, and to no

other purpose whatever.

Sec. 25. Except the debts specified in sections twenty-three and twenty-four of this article, no debts shall hereafter be contracted by or on behalf of this State unless such debts shall be authorized by law for some work or object, to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax to pay, and sufficient to pay the interest on such debt as it falls due, and also to pay and discharge the principal of such debt within twenty-five years from the time of the contracting thereof. No such law shall take effect until it shall, at a general election, have been submitted to the people and have received a majority of all the votes cast for and against it at such election. On the final passage of such bill in either House of the Legislature, the question shall be taken by yeas and nays, to be duly entered on the journals thereof, and shall be: "Shall this bill pass, and ought the same to receive the sanction of the people?"

Sec. 29. No bond or evidence of indebtedness of this State shall be valid unless the same shall have endorsed thereon a certificate, signed by the Auditor and Attorney General of the State, showing that the bond or evidence of debt is issued pursuant to law and is within the debt limit. . . .¹⁸

With the exception of Section 23, which was amended in 1941 and 1944, these provisions have remained unchanged since 1907. However, as Ratchford stated, "constitutional debt limitations mean little until they have been interpreted by the courts."¹⁹ In a series of decisions between 1908 and 1940, the Supreme Court of Oklahoma effectively nullified the most

¹⁸Oklahoma, Constitution, Art. X.

¹⁹Ratchford, American State Debts, p. 446.

important restrictions on state debt set forth in the Constitution.²⁰

Funding Bonds of 1908

Most of the long-term general debt incurred by the state of Oklahoma prior to 1941 consisted of bonds issued for the purpose of funding accumulated short-term obligations.²¹ The first debt of this type was created by the issuance of the Funding Bonds of 1908, authorized by the legislature for paying the outstanding obligations of the Territory of Oklahoma and the initial expenses of the new state government.²² The Territorial indebtedness, including

²⁰Only the cases involving the issuance of general state debt were included in Chapters II and III. The development of the "special fund doctrine"--relating to the issuance of self-liquidating debt--is traced in Chapters IV and V, below.

²¹The short-term obligations were usually nonpayable warrants. At various times throughout the period, but particularly in the early years of statehood and later during the depression of the 1930's, the State Treasurer was unable to redeem all warrants in cash. The accumulation of a large amount of nonpayable warrants impaired the credit of the state and involved a relatively heavy burden of interest. Legislation in force until 1937 provided for the payment of 6 per cent interest on nonpayable warrants (Oklahoma, Revised Laws [1910], sec. 8140), although at that time the rate was reduced to 4 per cent (Oklahoma, Session Laws [1936-1937], c. 20, art. 13, H.B. 533). Tax-anticipation notes issued in lieu of nonpayable warrants were funded in 1939 (infra, pp. 66-71).

²²Oklahoma, Session Laws (1907-1908), c. 7, art. 1, H.B. 175.

warrants and contractual obligations, totaled \$1,228,223. This debt was assumed in accordance with the provisions of the Constitution of 1907.²³ The salaries and legislative expenses of the state amounted to \$157,700.²⁴

The legislature limited the issue to \$1,460,000, sufficient to pay the total debt of \$1,385,923 and the accrued interest. The obligations were to mature serially over a period of ten years, beginning in the eleventh year from the date of issuance. The statute stipulated a maximum annual rate of interest of 4 per cent and prohibited the sale of the bonds at less than their par value. The legislature was directed to levy annual taxes for meeting interest payments and for accumulating a sinking fund to retire the obligations.²⁵

As in most subsequent authorizations, the bonds were specifically exempted from taxation by the state. The interest coupons, when due, were made acceptable in payment of state taxes. Prior to the sale of the issue, the bonds were

²³Section 4 of Article I provided: "The debts and liabilities of the Territory of Oklahoma are hereby assumed, and shall be paid by the State."

²⁴Oklahoma, Session Laws (1907-1908), c. 7, art. 1, H.B. 175.

²⁵Ibid.

to be deposited with the Commissioners of the Land Office as security for an advance of funds from the permanent state school land fund.²⁶

While the bonds were still in the possession of the Commissioners of the Land Office, the validity of the issue was challenged in the courts by J. A. Menefee, the State Treasurer. Menefee refused to make the first semi-annual interest payment on the obligations. The dispute was submitted to the District Court of Logan County, which approved the bonds; and Menefee appealed the judgment to the state Supreme Court.²⁷

The State Treasurer conceded the validity of paying the initial expenses of the state government through the issuance of bonds.²⁸ The decisive question was "whether or not the Legislature had the authority to provide for refunding bonds to liquidate the assumed territorial indebtedness."²⁹ Menefee contended that, in the absence of any constitutional provision for the funding of the state debt, the

²⁶Ibid.

²⁷In re Menefee, State Treasurer, et al., 22 Okl. 365, 97 P. 1014 (1908).

²⁸Ibid. This indebtedness represented "expenses not provided for" and fell within the \$400,000 debt limit.

²⁹Ibid.

law authorizing the bonds should have been submitted to a popular vote.³⁰

The judgment of the lower court was affirmed, however. The Supreme Court ruled that the debt limitation of \$400,000 did not apply to the assumption of the Territorial obligations, since the state had contracted to pay this indebtedness in Section 4, Article I of the Constitution. The Court further held that the issuance of funding bonds did not represent the creation of debt, but only a change in the form of the indebtedness. According to the Court, the power of the legislature to incur a debt without the approval of the electorate--as provided in Section 23, Article X of the Constitution--included the authority to pay or refund "such indebtedness of the state, without reference to the people at a general election for sanction."³¹

As shown in Table 2, the Funding Bonds of 1908 were issued in the full amount of \$1,460,000 at the maximum authorized rate of interest of 4 per cent. They were scheduled to mature serially between 1918 and 1927. Despite the provisions of the authorization, no sinking fund payments were

³⁰Ibid.

³¹Ibid.

TABLE 2

FINANCIAL SUMMARY OF LONG-TERM GENERAL DEBT ISSUES OF THE
STATE OF OKLAHOMA, BY ISSUE, 1907-1940^a

Year	Issue	Net amount ^b	Coupon rate (per cent)	Maturity range
1908	Funding Bonds	\$ 1,460,000	4.0	1918-27
1910- 1911	Public Building Bonds ^c	2,451,500	5.0	1912-35
1913	Funding Bonds	2,907,000	4.5	1924-33
1933	Treasury Notes, Series A	5,400,000	4.0- 4.5	1934-37
	Series B	3,160,000	4.0- 4.5	1934-37
	Series C	<u>4,470,000</u>	4.25	1939
	Total	<u>13,030,000</u>		
1935	Funding Bonds, Series A	7,210,000	1.375- 2.875	1937-46
	Series B	3,100,000	1.375- 2.875	1937-46
	Total	<u>10,310,000</u>		
1939	Funding Bonds, Series A ^d	18,156,681	2.0- 2.25	1940-54
	Total	<u>\$48,315,181</u>		

^aSources: Biennial Report of the State Auditor, State of Oklahoma, 1926-1940; Annual Report of the State Treasurer of the State of Oklahoma, 1929-1940.

^bPar value of issues minus cancellations, if any.

^cThe obligations constituting the initial portion of this issue were designated Public Building Warrants.

^dOnly one series of these bonds was issued.

made until 1918, the year in which the first bonds matured.³²

According to a contemporary observer:

Setting aside a sinking fund for the payment of serial bonds was an unusual procedure on the part of the Legislature which perhaps they believed to be necessary because of the Constitutional provision contained in Article X, Section 4, that for the purpose of paying the state debt, if any, the legislature shall provide for levying annually a tax sufficient to pay the annual interest, and the principal of such debt within twenty-five years of the final passage of the law creating the debt. However, it is evident that the payment of an instalment of principal each year on a funded debt is equivalent to the setting aside of a sinking fund, and that such payment actually meets the intent of the Constitution.³³

The failure to accumulate a sinking fund, moreover, did not delay the redemption of the bonds. The issue was all retired by 1927, as scheduled.³⁴ Moody rated these obligations "Aaa."³⁵

³²Blachly, p. 15.

³³Ibid. In all subsequent authorizations of state bond issues, including those of the institutions for higher education and other state agencies, the Oklahoma legislature required the establishment of some kind of sinking fund for the retirement of serial obligations. Such funds, however, unlike sinking funds for term bonds, merely provide a means of meeting serial installments and do not necessarily involve the accumulation of a sufficient amount of money to retire the issues.

³⁴Biennial Report of the State Auditor, State of Oklahoma, 1928, p. 17.

³⁵John Moody, Moody's Analyses of Investments: Government and Municipal Investments, 1922 (New York: Moody's Investors Service, 1922), p. 1490.

Public Building Bonds of 1910-1911

In 1911 the legislature authorized the issuance of \$3,000,000 of building bonds for the construction of charitable and penal institutions and public buildings.³⁶ These obligations were payable out of the sale and rental of state lands reserved for public building purposes under the terms of the Enabling Act of 1907. Section 8 of the Act provided that "section thirty-three, and all lands heretofore selected in lieu thereof, heretofore reserved . . . for charitable and penal institutions and public buildings, shall be apportioned and disposed of as the legislature . . . may prescribe."³⁷ A Public Building Fund was established and

³⁶Oklahoma, Session Laws (1910-1911), c. 89, S.B. 198. This legislation amended a prior authorization of \$2,025,000 of Public Building Warrants (Oklahoma, Session Laws [1910], c. 16, S.B. 43), under which approximately \$600,000 of obligations had been issued (Bureau of the Census, National and State Indebtedness and Funds and Investments, 1870-1913, pp. 162-63). However, these "warrants" were never listed separately in the financial reports of the state, and in this study they were also included as a part of the issue designated Public Building Bonds of 1910-1911. They were actually long-term obligations and were issued under essentially the same provisions as the bonds.

³⁷³⁴ U.S. Statutes 267. It should be noted that the state originally provided for the sale of section thirty-three lands on a forty-year installment purchase plan (Oklahoma, Session Laws [1909], c. 28, art. 2, S.B. 1).

pledged to the payment of the interest and principal of the bonds.³⁸

The section thirty-three lands included 272,000 acres and were valued at \$1,000,000 in 1911. The issuance of bonds against the income of the lands permitted the immediate construction of urgently needed public buildings, and the subsequent appreciation of land values greatly increased the assets of the fund securing the issue.³⁹ The state of Montana had earlier employed the same scheme of financing public construction.⁴⁰

The statute authorizing the issue limited the rate of interest to 5 per cent per annum. The bonds were declared nontaxable for any purpose. Oklahoma banks, trust companies, and insurance companies were permitted to invest their capital and surplus in the obligations; and they were legalized as investments for state and local government

³⁸Oklahoma, Session Laws (1910-1911), c. 89, S.B. 198. No separate sinking fund was ever established (Blachly, p. 66).

³⁹Biennial Report of the State Auditor, State of Oklahoma, 1928, p. 21.

⁴⁰Ratchford, American State Debts, pp. 448-49. However, such bonds were ruled invalid in North Dakota and Utah (ibid., p. 449).

sinking funds.⁴¹

According to the provisions of the authorization, the building bonds were to be issued in twenty-eight series, maturing consecutively from 1912 to 1939. A board composed of the Governor, the State Auditor, and the State Treasurer was directed to make semi-annual estimates of the construction costs of buildings authorized by the legislature; and the bonds were to be sold as needed.⁴² Of the authorized amount, only \$2,451,500 of Public Building Bonds was sold, as shown in Table 2. The remaining bonds were never issued or were canceled.⁴³

Although the validity of this issue was not challenged, the Oklahoma Supreme Court subsequently held the obligations to constitute a form of state debt in a decision affirming the constitutionality of their exemption from taxation.⁴⁴ According to the Court, "the issuance of bonds

⁴¹Oklahoma, Session Laws (1910-1911), c. 89, S.B. 198. The bonds were to be sold at par to officials having charge of state and local sinking funds, and all other sales were to be made at the highest bid above par value.

⁴²Ibid. The writer could find no records of the annual sales of the bonds.

⁴³Biennial Report of the State Auditor, State of Oklahoma, 1928, pp. 17-18.

⁴⁴In re Assessment of First National Bank of Chickasha, 58 Okl. 508, 160 P. 469 (1916).

secured in the manner provided for was a method usual and ordinary of using the state's credit."⁴⁵ Regarding the taxation of the securities, the Court ruled that "the state building bonds, constituting as they do obligations of the state for the payment of money, and being an exercise of the borrowing power, and a use of the state's credit, do not constitute property within the meaning of section 50, art. 5, of the Constitution; and hence the statutes exempting such bonds from taxation do not contravene the constitutional limitation against exemption from taxation."⁴⁶

In 1917, the legislature made several appropriations

⁴⁵Ibid. The Public Building Bonds could perhaps be more accurately designated as a unique type of state debt in the history of Oklahoma finance. Actually, the authorization of 1911 pledged only the "good faith" of the state, and the bonds in some respects resembled the revenue obligations issued in later years by state institutions for higher education and other state agencies. However, the issue was classified as a form of general state debt in this study, inasmuch as the bonds were payable from funds of the state rather than the revenue of buildings constructed with the proceeds of the issue.

⁴⁶Ibid. Section 50 of Article V provides: "The Legislature shall pass no law exempting any property within this State from taxation, except as otherwise provided in this Constitution." The exceptions enumerated in Section 6 of Article X do not include state bonds (Oklahoma, Constitution).

out of the Public Building Fund for the construction of facilities at state institutions. These appropriations were drawn against surplus funds which were not needed to pay maturing building bonds or interest on the outstanding obligations. In an original proceeding prompted the following year by the refusal of the State Auditor to issue warrants against the Fund, the Oklahoma Supreme Court approved the expenditures and ordered the accounts to be opened.⁴⁷ The Court sustained the argument of the Attorney General that the state would not be violating its contract with the bondholders as long as the sums expended did not exceed the amount of unsold bonds remaining out of the total authorization, plus the interest which would accrue on them. The decision called for the cancellation of building bonds which had been issued but not yet sold by the State Treasurer.⁴⁸

As shown in Table 2, the Public Building Bonds carried a coupon rate of 5 per cent. As issued, the obligations were scheduled to mature between 1912 and 1935. Except for \$500 not presented for payment, the issue was retired during

⁴⁷State ex rel. Freeling, Attorney General, v. Howard, State Auditor, 67 Okl. 296, 171 P. 41 (1918).

⁴⁸Ibid.

the fiscal year 1936.⁴⁹

Funding Bonds of 1913

The second issue of state funding bonds, the Funding Bonds of 1913, was necessitated by the failure of tax revenue during the early years of statehood. Several thousand acres of Indian lands were assessed for taxation between 1908 and 1912, and the state issued warrants against the anticipated revenue from those assessments. In 1912, however, the Supreme Court of the United States ruled that the Indian lands were not taxable.⁵⁰ The Governor, the Secretary of State, and the State Treasurer, acting under the provisions of a Territorial statute of 1895,⁵¹ initiated proceedings to fund the outstanding warrants through the issuance of long-term obligations. The deficit, incurred principally during the fiscal

⁴⁹Biennial Report of the State Auditor, State of Oklahoma, 1936, p. 44.

⁵⁰Biennial Report of the State Auditor, State of Oklahoma, 1928, p. 17.

⁵¹Territory of Oklahoma, Session Laws (1895), c. 7, art. 1. This statute, as amended in 1897 and 1899, was included in the Compiled Laws of Oklahoma (1909), secs. 372-381.

year ending June 30, 1911, totaled almost \$3,000,000.⁵²

Under the terms of the legislation of 1895, the officials of the state were authorized to issue funding bonds in an amount not exceeding 1 per cent of the assessed valuation of the state. The statute specified a maximum annual rate of interest of 6 per cent and a maturity of thirty years for such obligations. Interest and principal were payable out of taxes.⁵³

As further provided in the legislation authorizing the bonds, the state officials applied to the District Court of Oklahoma County for approval of the issue. At the hearing, the District Court sustained the protests of several citizens and denied the application. This decree was reversed by the state Supreme Court, however.⁵⁴

In an earlier case the Supreme Court had held that the issuance of warrants did not create an indebtedness within the meaning of the constitutional debt limit "when a warrant was issued for the payment of money by the proper

⁵²In re Application of State to Issue Bonds to Fund Indebtedness, 33 Okl. 797, 127 P. 1065 (1912); 40 Okl. 145, 136 P. 1104 (1913).

⁵³Compiled Laws of Oklahoma (1909), secs. 372-381.

⁵⁴In re Application of State to Issue Bonds to Fund Indebtedness, 33 Okl. 797, 127 P. 1065 (1912).

officer by virtue of an appropriation where the money was already within the treasury of the state, or where a tax levy had already been made, and provision made for the collection of same, and such warrant was issued on such fund in the treasury as would be supplied by such tax."⁵⁵ The funding of an existing indebtedness had also been approved by the Court in the case involving the Funding Bonds of 1908.⁵⁶ However, the citizens who opposed the funding of the state debt in 1912 asserted that the unpaid warrants outstanding at that time represented invalid obligations, inasmuch as they had been issued in excess of the \$400,000 debt limit imposed in Section 23, Article X of the Constitution.⁵⁷

In reversing the judgment against the issuance of the

⁵⁵Bryan v. Menefee, State Treasurer, 21 Okl. 1, 95 P. 471 (1908). This proceeding grew out of the refusal of the State Treasurer to honor a salary warrant which had not been countersigned by the Attorney General. The question presented to the Court was whether or not a warrant constituted an "evidence of indebtedness" within the meaning of Section 29, Article X of the Constitution, which requires the signature of the State Auditor and Attorney General on bonds and evidences of indebtedness of the state. The Court noted that "the term 'evidence of indebtedness' certainly means a bond or such indebtedness as is usually evidenced by a bond" (ibid.).

⁵⁶In re Menefee, State Treasurer, et al., 22 Okl. 365, 97 P. 1014 (1908).

⁵⁷In re Application of State to Issue Bonds to Fund Indebtedness, 33 Okl. 797, 127 p. 1065 (1912).

funding bonds, the justices of the Supreme Court ruled that Section 23 must be construed "in the light of, and with due regard for" the other provisions of the Constitution.⁵⁸ The state, they observed, had been created by the people for the performance of certain necessary and fundamental functions. The Constitution required the performance of those functions.

To say that warrants issued in payment of services and supplies under the express and necessarily implied commands of other sections of the Constitution, to be paid out of cash in the treasury or current funds in process of collection, is in violation of section 23, as to any sum in excess of its limitations, is to subordinate these other sections of the Constitution to this one. It would render some of them contradictory or nugatory; and is a construction we do not believe was ever intended.⁵⁹

According to the interpretation of the Court, the debt controls were not meant to apply to obligations incurred for the payment of the ordinary current expenses of maintaining the state government. "It is believed that these limitations were intended to prevent the contracting of that

⁵⁸Ibid. "The old illustration of blood-letting in the streets is familiar to every lawyer," according to the opinion. "A statute provided that prisoners who escaped from jail should be hanged, but, when the prison caught fire and the prisoners escaped, the court did not sentence them to be hanged, and said that it was unreasonable that a man 'should be hanged because he would not stay and be burnt'" (ibid.).

⁵⁹Ibid.

class of pecuniary obligations not to be satisfied out of the current yearly funds, or other funds in hand lawfully applicable thereto; and which would, therefore, at the date of the contract, be an unprovided for liability and properly included in the general meaning of the word 'debt.'"⁶⁰ In holding that the failure of anticipated revenue was "contrary to their honest expectations," the Court presumed good faith on the part of the legislators.

There is no contention here that the debts which were incurred . . . exceeded at the time . . . the revenue provided in good faith for that year. We therefore have the right to assume that such is not the case, and that, if the revenue provided had been collected and properly applied, they would have been paid.⁶¹

The decision of 1912 further established the ruling that Section 3 of Article X, requiring a tax levy for the payment of a deficit, did not provide an exclusive remedy for correcting deficiencies in state revenue. The denial of the application for funding, the Court explained,

. . . would leave the state with a large valid debt outstanding, and with no practical means of extinguishing it. This would be no less than repudiation, and we have discovered no disposition upon the part of the people of Oklahoma to repudiate their just obligations. We believe the remedies to be concurrent,

⁶⁰Ibid.

⁶¹Ibid.

and that it is within the sound discretion of the chief officers of the state to select the one they will pursue, as best calculated to subserve the best interests of the taxpaying public. . . .

It would be a great hardship for the people to be compelled to pay this entire indebtedness in one year, in addition to the necessary expenses of government, by immediate taxation. It would seem to be much wiser if this indebtedness is met by the issuance of long time, low interest bearing bonds as is proposed.⁶²

The case was remanded to the District Court, which approved the issuance of the bonds after a second hearing. However, this judgment was also appealed to the Oklahoma Supreme Court.⁶³ The plaintiffs contended that, as a result of subsequent minor revisions in the schedule of warrants to be funded, the decision on the original appeal was no longer binding. Nevertheless, in the absence of a showing of "manifest or gross injustice," the majority of the Supreme Court reaffirmed the validity of the issue.⁶⁴

⁶²Ibid.

⁶³In re Application of State to Issue Bonds to Fund Indebtedness, 40 Okl. 145, 136 P. 1104 (1913).

⁶⁴Ibid. In a cogent dissenting opinion, Special Justice Robertson declared: "Section 23 gives authority for the state to contract debts to the amount of \$400,000, to meet casual deficits, or failure of revenues, or expenses not otherwise provided for, and section 24 authorizes the state to contract debts without limit for the purpose of defraying expenses incident to war, repel invasion, and suppress insurrection. With exception of the debts mentioned in these two sections, section 25 reserves to the people

As shown in Table 2, the Funding Bonds of 1913 were issued in the amount of \$2,907,000 at an annual rate of interest of 4.5 per cent. The issue was rated "Aaa" by Moody.⁶⁵ Except for \$100 not presented for payment, the state retired the last of these obligations in 1933.⁶⁶

Proposed Debt Measures, 1919-1926

Following the funding of the state's warrant indebtedness in 1913, no long-term general obligations were issued in Oklahoma for two decades.⁶⁷ Until the beginning of the depression of the 1930's, the state did not again accumulate

alone the power to create debts. Is it for the courts to say that this is a just and proper provision? Shall the courts prevent the exercise of this power by the usurpation of legislative functions? Shall the judicial arm of government, on the ground of expediency alone, usurp the prerogatives of the Legislature, or take from the people the rights they have specifically reserved to themselves in their organic law? If so, the majority opinion of the court is correct" (ibid.).

⁶⁵Moody's Analyses of Investments: Government and Municipal Investments, 1922, p. 1490.

⁶⁶Biennial Report of the State Auditor, State of Oklahoma, 1934, p. 28. Ironically, the final payments were made with nonpayable warrants bearing 6 per cent interest (ibid., p. 2).

⁶⁷In 1924, however, the state institutions for higher education began to issue revenue bonds (infra, Chapter IV, p. 142).

a large enough amount of nonpayable warrants to require funding, and the electorate refused to approve three state bond issues proposed during the period. These issues were submitted for approval in the form of constitutional amendments, rather than under the provisions of Section 25, Article X of the Constitution.⁶⁸

In 1919, the voters rejected an amendment to Section 25 providing for the issuance of \$50,000,000 of bonds for the construction of a state highway system. Under the terms of the proposed amendment, the bonds were to be sold by a state Road Commission, consisting of the Governor and four appointees. The annual rate of interest on the obligations was limited to 4.5 per cent, and the issue was to be retired serially over a period of twenty-five years. The amendment pledged the full faith and credit of the state to the payment of interest and principal. The necessary sums were to be appropriated out of the General Revenue Fund.⁶⁹ In a special

⁶⁸Under Section 25, Article X, a bond issue is approved if it receives a majority of the votes cast for and against the measure at a general election. To be adopted at a general election, a constitutional amendment requires a majority of all votes cast in the election. However, in a special election, a majority of votes cast on a proposed amendment is sufficient for its adoption (Oklahoma, Constitution, Art. V, sec. 2; Art. XXIV, sec. 1).

⁶⁹Oklahoma, Session Laws (1919), c. 307, Senate Joint Resolution No. 10.

election held May 6, 1919, the measure was defeated by a vote of 69,917 to 171,327.⁷⁰

In 1922 another \$50,000,000 state bond issue was proposed for the payment of bonuses to World War I veterans and nurses. This amendment provided for the creation of a Veterans' Commission, to be composed of the members of the Supreme Court and the Criminal Court of Appeals. The measure called for an advance appropriation from the State Treasury and the establishment of a sinking fund to meet the bond service requirements. In the general election of 1922, the amendment received 255,887 affirmative votes out of the 260,282 votes required for its adoption.⁷¹

The following year the electorate rejected a program of rehabilitation, compensation, and farm and home loans for veterans of World War I. This program was to be administered by a Soldiers' State Aid Commission and financed out of the proceeds of a \$50,000,000 bond issue. The amendment provided for an additional tax levy and the creation of a special

⁷⁰State Question No. 100, Referendum No. 34; Directory of the State of Oklahoma, 1957, comp. Leo Winters, Secretary, The State Election Board (Guthrie, Okla.: Co-Operative Publishing Co., 1957), p. 176.

⁷¹State Question No. 116, Initiative Petition No. 76; Directory of the State of Oklahoma, 1957, p. 177.

sinking fund to retire the obligations. It was defeated in a special election, October 2, 1923, by a vote of 120,219 to 142,082.⁷²

The only other measure relating to general state debt submitted to a popular vote prior to 1941 was a law proposing certain restrictions on debt management. Through an initiative petition of 1926, a group of citizens attempted to establish a system of competitive bidding for flotations of state bonds exceeding \$5,000. All persons paid for their services in preparing an issue for sale were to be prohibited by the measure from participating in the purchase of the securities. The proposal also required state fiscal officers to schedule the retirement of general obligations in equal annual installments. This proposition was rejected by a vote of 114,479 to 165,288 in the general election of 1926.⁷³

Treasury Notes of 1933

As shown in Table 3, the gross outstanding long-term general debt of Oklahoma rose to approximately \$6,500,000 in the first decade of statehood and then declined steadily

⁷²State Question No. 123, Referendum Petition No. 43; Directory of the State of Oklahoma, 1957, p. 178.

⁷³State Question No. 139, Initiative Petition No. 90; Directory of the State of Oklahoma, 1957, p. 179.

TABLE 3

GROSS OUTSTANDING FUNDING OBLIGATIONS, PUBLIC BUILDING BONDS,
AND TOTAL LONG-TERM GENERAL DEBT OF THE STATE OF OKLAHOMA,
BIENNIALY, 1908-1940^a

Fiscal year ^b	Funding obligations ^c	Public Building Bonds ^d	Total
1908	\$ 1,460,000	\$.....	\$ 1,460,000
1910	1,460,000	498,000	1,958,000
1912	1,460,000	1,595,000	3,055,000
1914	N.r. ^e	N.r. ^e	N.r. ^e
1916	4,367,000	2,080,000	6,447,000
1918	4,367,000	1,962,000	6,329,000
1920	N.r. ^e	N.r. ^e	N.r. ^e
1922	2,826,900	1,625,000	4,451,900
1924	2,533,900	1,394,000	3,927,900
1926	1,639,900	1,149,000	2,788,900
1928	1,125,700	905,500	2,031,200
1930	720,600	638,600	1,359,200
1932	386,700	383,600	770,300
1934	12,453,100	126,500	12,579,600
1936	17,653,100	500	17,653,600
1938	8,469,100	.....	8,469,100
1940	25,343,781	.....	25,343,781

^aSources: U.S., Bureau of the Census, National and State Indebtedness and Funds and Investments, 1870-1913 (Washington: U.S. Government Printing Office, 1914); U.S., Bureau of the Census, Financial Statistics of States, 1916 (Washington: U.S. Government Printing Office, 1917); U.S., Bureau of the Census, Financial Statistics of States, 1918 (Washington: U.S. Government Printing Office, 1919); State of Oklahoma, Budget (also titled State of Oklahoma, Budget

TABLE 3--Continued

Requests and State of Oklahoma, Budget Estimates), 1923-1925--1942-1943; Biennial Report of the State Auditor, State of Oklahoma, 1926-1940; Annual Report of the State Treasurer of the State of Oklahoma, 1929-1940. Obligations due but not presented for payment and obligations due at the end of the fiscal year were included as outstanding debt in this tabulation, although they were not reported in all of the sources in some instances.

^b Ending November 30 to 1914, and June 30 thereafter.

^c Included bonds and long-term notes.

^d The obligations constituting the initial portion of this issue were designated Public Building Warrants.

^e Not reported in available series of cited sources.

until the early years of the depression. By 1932 the funding debt of the state, consisting of the outstanding funding bonds, had been reduced to \$386,700. Total long-term general indebtedness, including the outstanding Public Building Bonds, amounted to only \$770,300 in 1932.

In 1933, however, the state again resorted to the issuance of long-term obligations for the funding of nonpayable warrants. This issue, the Treasury Notes of 1933, was the first in a series of four funding operations carried out during the course of the depression. The decade was characterized by large, recurring deficits in the General Revenue Fund.⁷⁴ As shown in Table 4, deficits appeared in the General Revenue Fund in all except two of the fiscal years between 1930 and 1941. These deficits were incurred through the issuance of nonpayable warrants and tax-anticipation notes.⁷⁵

⁷⁴The General Revenue Fund received only the residue of income not "earmarked" for the support of the Highway Department, the public assistance programs, the Public Safety Department, the Oklahoma Tax Commission, and numerous other governmental functions. Thus, the deficit of the state ordinarily arose in this fund, while the various special funds often showed substantial surpluses (Weaver, pp. 13-16). Data on the total revenue and expenditure of the state are presented in Chapter VI.

⁷⁵The State Treasurer complained in 1935: "Oklahoma's old-fashioned system, set up at the beginning of statehood more than a quarter of a century ago, contemplates issuance

TABLE 4

SURPLUS OR DEFICIT IN THE GENERAL REVENUE FUND,
STATE OF OKLAHOMA, ANNUALLY, 1930-1941^a

Fiscal year	Surplus	Deficit ^b
1930	\$.....	\$ 186,075.52
1931	.....	5,965,137.52
1932	.....	3,160,000.00
1933	.....	4,470,000.00
1934	.....	4,821,425.23
1935	.....	5,488,574.77
1936	823,518.36	.....
1937	41,916.28	.....
1938	.....	8,000,000.00
1939	.....	10,156,681.00
1940	.....	7,195,156.94
1941	.....	10,030,897.74
Total ^c	\$865,434.64	\$59,473,948.72

^aSource: State of Oklahoma, Budget, 1950-1951,
p. 147.

^bRepresented by nonpayable warrants and tax-anticipation notes, including accrued interest to date funded.

^cSurplus funds were not applied to the reduction of deficits. Hence the totals were shown distinctively.

During the first four years of the depression, the state accumulated almost \$13,000,000 of nonpayable general revenue warrants, on which the accrued interest totaled approximately \$1,000,000.⁷⁶ The Fourteenth Legislature empowered the State Treasurer to fund this indebtedness through the issuance of negotiable, nontaxable Treasury Notes, bearing a maximum annual rate of interest of 4.5 per cent and maturing within six years.⁷⁷ The notes were to be exchanged at par, plus accrued interest, for the unpaid warrants. The State Treasurer was directed to call for payment all warrants not submitted in exchange for the notes, as soon as funds were available.⁷⁸

of warrants in payment of each claim filed against the state. At the beginning of each fiscal year and for the succeeding four or five months, the state is able to issue cash warrants and operate on a cash basis, but about November 1st or December 1st it becomes necessary to start issuance of non-payable warrants, due to the fact that cash accounts become depleted, and the total of these non-payable warrants increases steadily until the fiscal year ends on the following June 30" (The Brookings Institution, Report on a Survey of Organization and Administration of Oklahoma, p. 276). At that time the Treasurer recommended a policy of short-term borrowing through the issuance of tax-anticipation notes (*ibid.*). However, this method of financing was not utilized until 1938 (*infra*, pp. 66-71).

⁷⁶Biennial Report of the State Auditor, State of Oklahoma, 1934, p. 29.

⁷⁷Oklahoma, Session Laws (1933), c. 164, H.B. 715.

⁷⁸Ibid.

The legislature provided for the retirement of the Treasury Notes through the diversion of 40 per cent of the gasoline excise taxes collected for state highway construction and maintenance.⁷⁹ However, the full faith and credit of the state were pledged to the payment of the issue. Under the terms of the authorization, the obligations were declared to be incontestable in any Oklahoma court thirty days after their approval by the Attorney General. They were legalized as investments for public sinking funds and private trust funds.⁸⁰

As shown in Table 2, the Treasury Notes of 1933 were issued in three series, totaling \$13,030,000.⁸¹ The rate of interest on the obligations ranged from 4 to 4.5 per cent. The issue was all retired on schedule by June 30, 1939, except for \$34,000 not presented for payment.⁸²

⁷⁹Ibid. The gasoline tax was three cents a gallon. In 1935 the portion of the tax diverted for the payment of the Treasury Notes was reduced to 15 per cent (Oklahoma, Session Laws [1935], c. 66, art. 11, H.B. 29).

⁸⁰Oklahoma, Session Laws (1933), c. 164, H.B. 715.

⁸¹Approximately \$750,000 of the deficits incurred during the first two years of the depression was paid directly through the diversion of gasoline taxes (Biennial Report of the State Auditor, State of Oklahoma, 1940, p. 89).

⁸²Annual Report of the State Treasurer of the State of Oklahoma, 1939, p. 15.

Funding Bonds of 1935

As a result of continuing deficits in the General Revenue Fund, the Fifteenth Legislature was forced to authorize the issuance of another series of funding obligations, the Funding Bonds of 1935.⁸³ The State Board of Equalization was empowered to sell these bonds for the redemption of any outstanding nonpayable warrants issued prior to July 1, 1935, or to exchange the long-term obligations for the warrants. The State Treasurer was directed to call the warrants for payment upon the order of the Board of Equalization. The statute also authorized the exchange of these bonds for any outstanding Treasury Notes of 1933.⁸⁴

Under the terms of the authorization, the funding obligations were to bear a maximum annual rate of interest of 3 per cent over a maximum period of maturity of thirteen years. All of the bonds were to be callable at any time. The legislature established a sinking fund for the retirement of the issue, pledging a monthly deposit of one-twelfth of the

⁸³Oklahoma, Session Laws (1935), c. 27, art. 1, H.B. 217.

⁸⁴Ibid. However, the reduction in the rate of interest on such an exchange precluded any refunding of the Treasury Notes. See Table 2.

annual bond service requirements from the General Revenue Funds of the following ten years. The legislature also provided for an additional tax levy in the event of a deficiency in the sinking fund. The bonds were legalized as investments for banks, trust companies, insurance companies, investment companies, building and loan associations, trustees and guardians, "and all other corporations, associations and persons, subject to the laws of this State." The officials in charge of public sinking funds and the surplus funds of the State School Land Commission were authorized to purchase the obligations.⁸⁵

The procedure for validating these bonds included an application to the Oklahoma Supreme Court for the approval of each series of the issue. The statute required a public notice ten days in advance of the hearings to permit the filing of any protests. Upon approval, the bonds were to be signed by the Chief Justice of the Supreme Court and were thereafter to be incontestable in any Oklahoma court.⁸⁶

In the first proceeding initiated under these provisions, the Supreme Court merely reiterated the doctrine

⁸⁵Ibid.

⁸⁶Ibid.

that "bonds which are issued to fund valid warrant indebtedness of the state neither create any debt nor increase the debt of the state."⁸⁷ No protests were filed at the hearing, and the Court unanimously approved the series. The second series of the Funding Bonds of 1935 was not contested either, but the decision approving these obligations is notable for one new ruling.⁸⁸ These bonds were to be sold for cash, rather than exchanged for warrants, and the Court raised the question of the constitutionality of such a procedure. The unanimous opinion was that "there is no substantial ground for a distinction between the two methods of issuing funding bonds, where the proceeds of the sale are actually used for the retirement of the outstanding obligations funded."⁸⁹

As indicated in Table 2, the two series of the Funding Bonds of 1935 totaled \$10,310,000, the sum of the deficits in the General Revenue Fund for the fiscal years 1934 and 1935.⁹⁰ According to Table 2, these obligations were

⁸⁷In re Funding Bonds of 1935, Series A, 173 Okl. 622, 50 P. 2d 221 (1935).

⁸⁸In re Funding Bonds of 1935, Series B, 173 Okl. 626, 50 P. 2d 226 (1935).

⁸⁹Ibid. The bonds in this series were purchased by the Commissioners of the Land Office (ibid.).

⁹⁰These deficits represented nonpayable warrants issued during the biennium, plus accrued interest. See Table 4.

scheduled to mature over a period of ten years, and they carried a maximum interest rate of less than 3 per cent. Moody's Investors Service assigned a rating of "A" to the issue.⁹¹ The last of these obligations were retired in 1946.⁹²

Invalidation of State Highway Notes

The flotation of \$35,000,000 of Highway Revenue Anticipation Notes was proposed by the Oklahoma legislature in 1937 as a means of financing the construction of a comprehensive primary and secondary state highway system.⁹³ These notes were to be issued by the Highway Commission under the auspices of state fiscal officers, but they were not to become obligations of the state government. For servicing the projected indebtedness, the legislature ordered the diversion of 40 per cent of the gasoline taxes collected for

⁹¹Moody's Manual of Investments: Government Securities, 1937 (New York: Moody's Investors Service, 1937), p. 1380.

⁹²Biennial Report of the State Auditor, State of Oklahoma, 1946, p. 18.

⁹³Oklahoma, Session Laws (1936-1937), c. 50, art. 10, S.B. 205. At least 75 per cent of the proceeds of the issue was to be spent on projects receiving federal matching grants.

state highway construction and maintenance.⁹⁴

Under the terms of the statute, the highway notes were to bear a maximum annual rate of interest of 3 per cent and were to mature serially between 1938 and 1947. The obligations were legalized as investments for the state, political subdivisions, individuals and private trust funds, and all corporations except Oklahoma building and loan associations. The securities were to be sold for cash, under a system of competitive bidding, at no less than par value and accrued interest. To determine the validity of the issue, the legislature provided for an original hearing before the Oklahoma Supreme Court.⁹⁵

A proceeding initiated by a state taxpayer later in the year resulted in an injunction against the flotation of the highway notes.⁹⁶ According to the plaintiff, the issuance of such obligations was prohibited by the constitutional debt limitation. The defendants--the Highway Commission, the State Auditor, and the State Treasurer--contended that

⁹⁴Ibid. If necessary, up to one-half of the Highway Commission's share of state license taxes was also to be paid into the sinking fund for the obligations.

⁹⁵Ibid.

⁹⁶Boswell v. State et al., 181 Okl. 435, 74 P. 2d 940 (1937).

the restriction applied only to full faith and credit debt payable from direct taxes.⁹⁷

A five to four majority of the state Supreme Court ruled in a lengthy opinion that any form of indebtedness payable from either property taxes or specific taxes was subject to the debt control provisions of the Constitution. Numerous decisions from other jurisdictions were cited in support of this interpretation. The majority sharply distinguished the highway notes from college revenue bonds approved by the Court in a previous case.⁹⁸ The latter obligations were secured by a special fund of earnings from bond-financed dormitories, whereas the highway notes were to be serviced from a fund, in the words of the majority,

. . . created from specific taxes which constitute a part of the state's general revenue. . . . The maker of the obligation here [the majority continued] is not a separate legal entity, but is merely an arm or agency of the state. . . . It is manifest . . . that the project contemplated by this act of the Legislature is in no sense a self-liquidating project.⁹⁹

⁹⁷Ibid.

⁹⁸Baker v. Carter, State Auditor, et al., 165 Okl. 116, 25 P. 2d 747 (1933).

⁹⁹Boswell v. State et al., 181 Okl. 435, 74 P. 2d 940 (1937). An amendment of 1933 reserving the power of ad valorem taxation for local governments was held by the majority to have no bearing on the constitutional provisions regarding state indebtedness. A recent development

The dissenting justices all wrote separate opinions based on the argument that the debt limit applied only to obligations payable from general property taxes. They further asserted that the Court had committed itself to the "special fund doctrine" in the earlier case involving college revenue bonds. Under that doctrine, according to the minority, all nonguaranteed debt was exempt from the state debt limit. Justice Phelps, who concurred in part with the majority, complained that "the people of this state, and especially the legal profession, the judges, and the Legislature, have a right to some dependable rule of law."¹⁰⁰

Treasury Notes of 1938-1939

As a result of changes in the allocation of taxes to the various state funds, the General Revenue Fund showed small surpluses for the fiscal years 1936 and 1937, as noted in Table 4.¹⁰¹ Anticipating the recurrence of deficits,

in connection with this question is explained below, Chapter III, p. 110, note 74.

¹⁰⁰Ibid. The italics were in the opinion. In an unusually frank comment, Justice Phelps noted that if the Oklahoma Constitution was "what the Judges say it is," then the responsibility for a certain degree of consistency in its decisions devolved upon the Court (ibid.).

¹⁰¹In both years the General Revenue Fund received over 40 per cent of the total taxes collected by the Oklahoma

however, the legislature in 1937 provided a new method of short-term financing for the state.¹⁰² The State Treasurer was authorized, with the approval of the Governor and the State Auditor, to issue and sell negotiable Treasury Notes in anticipation of the receipt of revenue for the General Revenue Fund. The purpose of the act was to maintain a sufficient cash balance in the General Revenue Fund to meet current expenses, thus obviating the issuance of nonpayable warrants.¹⁰³

The annual rate of interest on the tax-anticipation notes--to be fixed by the Governor, the Auditor, and the Treasurer--was limited to 5 per cent.¹⁰⁴ The obligations

Tax Commission, compared with less than 20 per cent for the earlier part of the decade (Biennial Report of the Oklahoma Tax Commission, 1934-1938).

¹⁰²Oklahoma, Session Laws (1936-1937), c. 27, art. 3, H.B. 380.

¹⁰³Ibid.

¹⁰⁴Ibid. Earlier in the same session, the legislature had lowered the rate of interest on nonpayable warrants to 4 per cent. However, the statute authorizing the notes described these warrants as 6 per cent obligations (Oklahoma, Session Laws [1936-1937], c. 27, art. 3, H.B. 380). The legislature evidently overlooked the reduction in the rate of interest on warrants. As issued, though, the notes bore low rates of interest, ranging from 1.25 per cent to 2 per cent (Biennial Report of the State Auditor, State of Oklahoma, 1940, p. 71).

were to be sold in series during each fiscal year as funds were needed to pay the general revenue warrants for that year. The statute also authorized the refinancing of maturing notes through the issuance of new series of similar obligations.¹⁰⁵ Excluding the amount refunded, the aggregate issue for any fiscal year was not to exceed the total general revenue appropriations for that year. The notes were to be sold through public subscriptions, at par plus accrued interest. The legislature pledged the full faith and credit of the state to the payment of the obligations.¹⁰⁶

Subsequent to the enactment of this legislation, a taxpayer of the state filed suit in the District Court of Oklahoma County to enjoin the issuance of any more nonpayable warrants or of the newly authorized tax-anticipation notes. The plaintiff contended that the Sixteenth Legislature had knowingly appropriated sums in excess of the estimated revenue for the biennium. He appealed the case when the District

¹⁰⁵Oklahoma, Session Laws (1936-1937), c. 27, art. 3, H.B. 380. The act did not specify any maximum maturity for the notes. However, as issued, all the series were payable within less than one year (Biennial Report of the State Auditor, State of Oklahoma, 1940, p. 71).

¹⁰⁶Oklahoma, Session Laws (1936-1937), c. 27, art. 3, H.B. 380. The notes were specifically payable from the General Revenue Fund of the fiscal year in which they were issued.

Court refused to grant the injunction.¹⁰⁷

The state Supreme Court affirmed the judgment in an opinion based on two previous decisions.¹⁰⁸ Briefly, the Court held that, in making appropriations, the legislature was "not bound by any hard and fast rule based on the amount of income received."¹⁰⁹ In the absence of a ruling by the trial court, the constitutionality of the tax-anticipation notes was not determined.

¹⁰⁷Davis v. Childers, State Auditor, et al., 181 Okl. 468, 74 P. 2d 930 (1937).

¹⁰⁸Graham v. Childers, State Auditor, et al., 114 Okl. 38, 241 P. 178 (1925); State, ex rel. Hudson, et al. v. Carter, State Auditor, 167 Okl. 32, 27 P. 2d 617 (1933). In the former case, the Court validated a supplemental appropriation for the purchase of public school text-books, even though there were no available funds in the Treasury at the time the appropriation was made. According to the opinion, Section 3 of Article X--authorizing additional tax levies to correct deficiencies in revenue--provided a "safety-valve" for the legislature. The constitutional debt limit, in the words of the majority, applied only to "such an obligation as the Legislature is required to provide for by levying a tax to pay the annual interest and a sinking fund to liquidate the principle [sic] at maturity" (Graham v. Childers, State Auditor, et al., 114 Okl. 38, 241 P. 178 [1925]). In the latter decision, the Court pointed out that, under the Oklahoma Constitution, the amount of money which could be appropriated was not determined by estimating future revenue. On the contrary, according to the opinion, "the amount of taxes levied . . . is dependent upon the amount of the appropriations" (State, ex rel. Hudson, et al. v. Carter, State Auditor, 167 Okl. 32, 27 P. 2d 617 [1933]).

¹⁰⁹Davis v. Childers, State Auditor, et al., 181 Okl. 468, 74 P. 2d 930 (1937).

The validity of the notes was again challenged in 1938, prior to the issuance of the first series of the obligations. In an original proceeding before the Oklahoma Supreme Court, another taxpayer sought to enjoin the flotation, charging that this method of borrowing violated the constitutional debt controls set forth in Sections 23, 24, and 25, Article X.¹¹⁰ The Court denied the injunction on the grounds that such notes were essentially the same as funding obligations. "We find no wrong," according to the opinion, "in providing a means of taking up properly issued warrants by use of notes of less burden, payable out of the same revenues from which the warrants ultimately would be payable."¹¹¹

In 1938 and 1939, the state issued five series of tax-anticipation notes, totaling \$18,000,000.¹¹² The

¹¹⁰Schmoldt v. Bolen, State Treasurer, et al., 183 Okl. 191, 80 P. 2d 609 (1938).

¹¹¹Ibid. The authorization specifically provided that the proceeds of the note issues could be used to pay warrants "issued before or after the sale of said Notes" (Oklahoma, Session Laws [1936-1937], c. 27, art. 3, H.B. 380). Nevertheless, the Court asserted: "We do not read the act to authorize the issuance of notes before any warrants are issued" (Schmoldt v. Bolen, State Treasurer, et al., 183 Okl. 191, 80 P. 2d 609 [1938]).

¹¹²Biennial Report of the State Auditor, State of Oklahoma, 1940, p. 71.

deficits for those fiscal years, shown on an annual basis in Table 4, were incurred altogether in this manner.¹¹³ Since the notes were short-term obligations, they were not included in Table 2. However, this entire issue was converted into long-term debt on May 1, 1939. Being unable to retire the maturing notes from available general revenue, the officials of the state chose to fund them rather than refinance them through the issuance of additional notes.¹¹⁴

Funding Bonds of 1939

The funding of the tax-anticipation notes was carried out by the Oklahoma Funding Bond Commission--consisting of the Governor, the Attorney General, and the Secretary of State--in accordance with an act of the Seventeenth Legislature.¹¹⁵ This act empowered the Commission to issue long-term obligations for redeeming the notes and any unpaid warrants outstanding at the end of the fiscal year 1939. The

¹¹³Ibid., p. 89. The deficit for the fiscal year 1939 included \$156,681 of accrued interest on the outstanding notes. See Table 4.

¹¹⁴Ibid. Although the series were issued at various times, all the notes matured on the same date.

¹¹⁵Oklahoma, Session Laws (1939), c. 27, art. 5, S.B. 239. The Commission was created by the act.

funding bonds were to be sold for cash or exchanged directly for the short-term obligation, at par plus accrued interest in either case.¹¹⁶

For this issue, the legislature authorized a maximum annual rate of interest of 2.25 per cent and a maturity of sixteen years. Bonds maturing in five years or more were to be callable. The statute legalized the obligations as personal, institutional, and public investments. It also declared the securities to be nontaxable.¹¹⁷

All surplus general revenue for the fiscal year 1939 was committed to the sinking fund established for the new obligations, and the legislature pledged a monthly deposit of one-twelfth of the annual bond service requirements from the General Revenue Funds of 1940-1955. If necessary, additional taxes were to be levied to meet the payments of interest and principal. The issue was secured by the full faith and credit of the state. Each series of the bonds was to be approved by the Oklahoma Supreme Court.¹¹⁸

Upon the application of the Funding Bond Commission,

¹¹⁶Ibid. Competitive bidding was required on cash sales.

¹¹⁷Ibid.

¹¹⁸Ibid.

the Court affirmed the validity of the first (and only) series of these obligations, but with obvious reluctance.¹¹⁹ As Ratchford observed in a contemporary study of state debt, the opinion in this proceeding "bears evidence that the court regrets its former decisions and would like to reverse its position but does not dare do so."¹²⁰ Three justices wrote special concurring opinions, although none dissented from the conclusion of the majority.

Justice Osborn, for the majority, pointed out that the notes to be funded had been validated in 1938. Citing all the previous cases in which the Court had approved the funding of a valid existing indebtedness, he concluded that the proposed bond issue could not be considered a violation of the constitutional debt limitation. "Whatever construction," he added, "might be placed upon the . . . provision if its interpretation were before us for the first time, we are not willing to depart from the construction placed thereon, and necessarily relied on, in the long-standing opinions

¹¹⁹In re State Treasury Note Indebtedness, 185 Okl. 10, 90 P. 2d 19 (1939). This proceeding is also cited as In re Funding Bonds of 1939, Series A. A taxpayer of the state protested the issuance of these bonds, but the Court overruled all of his objections.

¹²⁰Ratchford, American State Debts, p. 471.

of this Court."¹²¹

Justice Hurst, specially concurring, frankly declared that the earlier decisions "should now be overruled so that in the future no debt will be created in violation of our Constitution."¹²² According to Justice Riley, who concurred under the rule of stare decisis, "recurrence to plain and simple meaning of fundamental law may be forewarned and had at a time favorable to the least injury."¹²³ In a final concurring opinion, Vice Chief Justice Welch asserted that "while we have found it necessary and proper to approve this specific issue of funding bonds covering these specific prior obligations, we should recognize the fact that in this case we have approached the verge of the law on the subject, and

¹²¹In re State Treasury Note Indebtedness, 185 Okl. 10, 90 P. 2d 19 (1939).

¹²²Ibid. According to the testimony of the State Treasurer and Assistant State Auditor, the notes to be funded had been issued only after claims had been incurred against the state. In connection with this aspect of the case, Justice Hurst commented: "It will not do for us to split hairs on the question as to when the debt was actually created, whether at the time the service was performed or the article purchased, when the claim was allowed, when the warrant was issued, when the deficit was definitely ascertained, or when the funding bonds were issued, for it is certain that when the funding bonds have been approved by this court and issued a debt has been created in excess of \$400,000 in violation of Sec. 23, Art. 10 of the Constitution" (ibid.).

¹²³Ibid.

that we can go no further when to do so would or might result in a pyramid of illegal and excessive debt for general purposes, by improper use or abuse of the privilege of issuing funding bonds."¹²⁴

The Chase National Bank of New York purchased \$6,011,681 of the Funding Bonds of 1939, and the remaining obligations--totaling \$12,145,000--were directly exchanged for Treasury Notes of 1938-1939.¹²⁵ As indicated in Table 2, this series was the largest issue of the entire period from 1907 to 1940. The rate of interest on the bonds ranged from 2 to 2.25 per cent, as shown in Table 2, and the obligations were scheduled to mature serially over a period of fifteen years.¹²⁶ Moody's Investors Service gave the issue a rating of "A."¹²⁷ On June 30, 1954, the state retired the last of

¹²⁴Ibid.

¹²⁵Ibid.

¹²⁶The officials of the state were evidently willing to pay a higher rate of interest on this indebtedness in order to extend the maturity of the obligations. During the last two years of the depression, they reverted to the issuance of 4 per cent nonpayable warrants, which had no definite date of maturity.

¹²⁷Moody's Manual of Investments: Government Securities, 1940 (New York: Moody's Investors Service, 1940), p. 1004.

these bonds.¹²⁸

The Funding Bonds of 1939 constituted the last issue of long-term general debt in Oklahoma prior to the adoption of the budget-balancing amendment. As indicated in Table 4, the state incurred additional deficits in the General Revenue Fund in 1940 and 1941, but this indebtedness was funded after the amendment of Section 23, Article X, in accordance with the provisions of the amendment.¹²⁹ During the period in which the original debt limit was in force, as shown in Table 2, the state issued a total of \$48,315,181 of long-term general obligations, including almost \$46,000,000 of funding bonds and notes.¹³⁰ And according to Table 3,

¹²⁸Annual Report of the State Treasurer of the State of Oklahoma, 1954, p. 24.

¹²⁹Infra, Chapter III, pp. 93-96. It should be noted here, however, that the Supreme Court ordered the issuance of the nonpayable warrants which created the deficit of 1940. In this proceeding, the Governor sought a writ of mandamus compelling the State Auditor to continue issuing nonpayable warrants in excess of the \$400,000 debt limit. The Court awarded the writ in a split decision based on prior opinions exempting warrant indebtedness from the constitutional debt limit (State ex rel. Phillips, Governor, v. Carter, State Auditor, 186 Okl. 579, 99 P. 2d 1025 [1940]).

¹³⁰During the same period, several other states accumulated substantial debts by funding nonpayable warrants (Ratchford, American State Debts, pp. 376-82). In many states, as in Oklahoma, this method of financing deficits provided a means of circumventing constitutional debt controls (ibid., pp. 467-72).

\$25,343,781 of this amount--consisting altogether of funding obligations--remained outstanding at the end of the period. "It now appears," Weaver concluded in 1940, "that all constitutional questions have been decided finally, and that at least Section 23 fixing the \$400,000 debt limit is as meaningless as if it had never been written."¹³¹

¹³¹Weaver, p. 59. Weaver considered the debt limit inadequate and obsolete, however (ibid.).

CHAPTER III

GENERAL STATE DEBT, 1941-1956

In 1941 the electorate of the state of Oklahoma adopted a constitutional amendment which invalidates legislative appropriations in excess of estimated revenue and limits the maximum amount of general debt that may be created without popular approval to \$500,000 during any fiscal year.¹ However, this measure--popularly called the "budget-balancing amendment"--provided for the issuance of obligations to fund or refund outstanding general indebtedness incurred prior to July 1, 1941. Also, the authorization of debts "to repel invasion, suppress insurrection or to defend the State in war" was not affected by the amendment.²

Between 1941 and 1956, the state floated three bond issues secured by tax revenue. The first issue consisted of funding bonds to redeem the nonpayable warrants issued during

¹Oklahoma, Constitution, Art. X, sec. 23.

²Oklahoma, Constitution, Art. X, sec. 24.

the fiscal years 1940 and 1941.³ The other two issues were specifically authorized in constitutional amendments approved by the voters subsequent to the adoption of the budget-balancing amendment.⁴ As a result of the issuance of these obligations, the gross long-term general debt of the state rose from approximately \$22,000,000 in 1941 to about \$42,000,000 in 1956.⁵ During the period two proposed issues of general state debt were defeated at the polls, and another issue payable out of state funds was ruled invalid by the Oklahoma Supreme Court.⁶

Adoption of the Budget-Balancing Amendment

A recent study of Oklahoma constitutional history characterized the 1940's as a "decade of reform."⁷ In state fiscal affairs, the outstanding constitutional reform was

³Infra, pp. 93-96.

⁴Infra, pp. 108-18; 126-31.

⁵Infra, Table 7.

⁶Infra, pp. 118-26; 132-34. In the latter instance, a small amount of bonds was actually issued, but each series was retired on the day of issuance.

⁷William S. Harmon, "Oklahoma's Constitutional Amendments: A Study of the Use of the Initiative and Referendum" (unpublished Ph.D. dissertation, University of Oklahoma, 1951), pp. 316-17. The phrase referred to amending activity, rather than any manifestation of political maturity.

undoubtedly the amendment of Section 23, Article X, at the beginning of the decade. The ineffectiveness of the original limitation on state debt had been clearly revealed during the depression by an unprecedented accumulation of general obligations representing the funding of recurrent short-term deficits. The Daily Oklahoman somberly observed a few days preceding the adoption of the budget-balancing amendment:

It is easily manifest that Oklahoma cannot go on forever spending millions of dollars every year in excess of the revenues collected. Ultimately it would exhaust the tax paying resources of the state to pay the interest on the public debt. Revenues and expenditures must be brought into balance if the state is to be saved from bankruptcy or confiscatory taxation.⁸

The attempt to terminate legislative deficit financing in Oklahoma by revising the original constitutional debt limitation was initiated by Governor Leon C. Phillips. The budget-balancing amendment was an administration measure.⁹ As presented for adoption, it provided:

Within twenty days after the adoption of this amendment and thereafter prior to the convening of each regular session of the Legislature, the State Board of Equalization shall make an itemized estimate of the revenues to be received by the State under the laws in effect at the time such estimate is made for each year of the next biennium showing separately the revenues to accrue to the credit of the General Revenue Fund and each special fund of

⁸The Daily Oklahoman, March 1, 1941, p. 8.

⁹Harmon, pp. 141-42.

the State, and the total amount of such estimate for each fiscal year shall not exceed the average total revenue which accrued to each such fund for the three (3) last preceding fiscal years, to which amount shall be added the cash surplus, if any, from the preceding fiscal year in the hands of the State Treasurer to the credit of any such fund and not previously appropriated by the State Legislature at the time such estimate is made. Such estimate shall be filed with the Governor, the President of the Senate and the Speaker of the House of Representatives. The Legislature shall not pass or enact any bill, act or measure making an appropriation of money for any purpose until such estimate is made and filed, unless the State Board of Equalization has failed to file said estimate at the time of convening of said Legislature, then, in such event, it shall be the duty of the Legislature to make such estimate pursuant to the provisions of this amendment, and all appropriations made in excess of such estimate shall be null and void; Provided, However, that the Legislature may at any regular session or special session called for that purpose, enact laws to provide for additional revenues, other than ad valorem taxes, or transferring the existing revenues or surpluses from one fund to another, whereupon it shall be the duty of the State Board of Equalization to make an estimate of the revenues that will accrue under such laws and to file the same with the Governor and with the President of the Senate and the Speaker of the House of Representatives, and the amount of any increase or decrease, resulting, for any reason, from such laws shall be added to or deducted from each respective fund, as the case may be. The amount of such adjusted estimate shall be the maximum amount which can be appropriated for all purposes from any fund for each year.

After June 30, 1941, that portion of every appropriation at the end of each fiscal year, in excess of actual revenues collected and allocated thereto as hereinafter provided, shall be null and void. Revenues deposited in the State Treasury to the credit of the General Revenue Fund or of any special fund, (which derives its revenue in whole or part from State taxes or fees) shall, except as to principal and interest on the public debt, be allocated

monthly to each department, institution, board, commission or special appropriation on a percentage basis, in that ratio that the total appropriation for such department, institution, board, commission, or special appropriation from each fund for that fiscal year bears to the total of all appropriations from each fund for that fiscal year, and no warrant shall be issued in excess of said allocation. Any department, institution or agency of the State operating on revenues derived from any law or laws which allocate the revenues thereof to such department, institution or agency, shall not incur obligations in excess of the unencumbered balance of surplus cash on hand. The Legislature shall provide a method whereby appropriations shall be divided and set upon a monthly, quarterly or semi-annual basis within each fiscal year to prevent obligations being incurred in excess of the revenue to be collected, and notwithstanding other provisions of this Constitution, the Legislature shall provide that all appropriations shall be reduced to bring them within revenues actually collected, but all such reductions shall apply to each department, institution, board, commission or special appropriation made by the State Legislature in the ratio that its total appropriation for that fiscal year bears to the total of all appropriations for that fiscal year; Provided, However, That the Governor may in his discretion issue a deficiency certificate or certificates to the State Auditor for the benefit of any department, institution, or agency of the State, if the amount of such deficiency certificate or certificates be within the limit of the current appropriation for that department, institution, or agency, whereupon the State Auditor shall issue warrants to the extent of such certificate or certificates for the payment of such claims as may be authorized by the Governor, and such warrants shall become a part of the public debt and shall be paid out of any money appropriated by the Legislature and made lawfully available therefor; Provided, Further, that in no event shall said deficiency certificate or certificates exceed in the aggregate the sum of Five Hundred Thousand (\$500,000.00) Dollars in any fiscal year.

The State shall never create or authorize the

creation of any debt or obligation, or fund or pay any deficit, against the State, or any department, institution or agency thereof, regardless of its form or source of money from which it is to be paid, except as provided in this amendment and in Sections Twenty-four (24) and Twenty-five (25) of Article Ten (X) of the Constitution of the State of Oklahoma.¹⁰ Provided, That the Legislature may fund or refund the State debt arising prior to July 1, 1941.¹¹

The opposition to the proposed amendment was led by A. L. Crable, State Superintendent of Public Instruction. His followers organized a "Peoples Committee" to campaign against the adoption of the measure. The Oklahoma Education Association, however, refused to support the anti-administration forces.¹²

Crable contended that the amendment would perpetuate the existing allocation of state funds under the "earmarking" system and would compel the legislature to balance the budget out of less than one-third of the state's total revenue. The

¹⁰Section 24 of Article X authorizes the creation of debts "to repel invasion, suppress insurrection or to defend the State in war." Section 25 provides that, with the exception of the obligations specified in Sections 23 and 24, the state may not incur any indebtedness without the approval of a majority of voters in a general election. Section 25 has, in effect, been nullified, however (infra, p. 110, note 74).

¹¹Oklahoma, Session Laws (1941), House Joint Resolution No. 10.

¹²Harmon, pp. 142-43.

schools, colleges, and eleemosynary institutions, he charged, would be forced to bear the brunt of the balancing of the budget. Furthermore, according to the State Superintendent, the measure delegated legislative powers to the executive branch of the government.¹³

Governor Phillips and his supporters formed a "Citizens Committee," including representatives of business interests, which distributed literature in every county of the state.¹⁴ The Governor vigorously defended his proposal as an imperative financial reform.

Less than 10 years ago [he explained in one address shortly before the election] the state officials began the pernicious habit of spending more money than was levied and collected in taxes and, by passive consent, the governors, the legislature, and the courts have permitted a condition to develop so that we now owe approximately \$35,000,000 which the people of the state have never approved.¹⁵

¹³The Daily Oklahoman, March 2, 1941, p. 8A.

¹⁴Harmon, p. 143.

¹⁵At the end of fiscal 1940, according to the U.S. Bureau of the Census, the debt of the state of Oklahoma totaled \$35,259,000, including more than \$6,000,000 of short-term obligations. Twenty-nine states had a higher per capita net bonded debt, which in Oklahoma amounted to only \$11.56. Per capita net bonded state debt in the United States in 1940 averaged \$18.78 (U.S., Bureau of the Census, Financial Statistics of States, 1940 [Washington: U.S. Government Printing Office, 1943], p. 42). This comparison is somewhat misleading, however, since the Census data for Oklahoma's indebtedness evidently excluded the outstanding obligations of the Grand River Dam Authority.

This debt requires, each year, out of the revenues we raise in taxes, almost \$4,000,000 to pay the interest and yearly maturities. If we should continue at the present rate and permit deficits to grow, at the end of 10 more years it will take all the money we now raise to support schools and state government to pay interest and accruals on state debt.¹⁶

The budget-balancing amendment was approved by a decisive majority in a special election on March 11, 1941. The vote in the election was very light, however. A total of 163,886 ballots was cast in favor of the new debt limitation and 85,752 votes against the measure.¹⁷ The submission of the amendment in a special election undoubtedly increased the probability of its adoption.¹⁸

¹⁶The Daily Oklahoman, March 4, 1941, p. 18.

¹⁷State Question No. 298, Legislative Referendum No. 80; Directory of the State of Oklahoma, 1957, p. 188. Over 665,000 votes were cast the preceding fall in the general election of 1940 (ibid.).

¹⁸According to a recent study of Oklahoma government: "In a general election, failure to vote on a referred measure is counted as a vote against such measure. The fate of any proposal, legislative or constitutional, therefore, often depends on whether it is presented to the people in a special election at which a majority on the measure is sufficient to effect adoption. Since special elections can be called by the governor and legislature, or by the legislature, the influence of either upon the adoption of amendments is significant indeed. This is apparent in an analysis of election results. Of the twenty-two amendments submitted by the legislature which the people adopted, only four were approved in general elections. Twenty-four of the thirty-three amendments adopted since statehood, or more than seventy percent, have been submitted to the people in special elections" (John

Vitalization of the Budget-Balancing Amendment

In vitalizing the budget-balancing amendment, the Eighteenth Legislature prescribed a detailed procedure for operating the state government on a pro rata cash basis.¹⁹ The statute was devoted principally to the disposition of the General Revenue Fund. Agencies sustained by earmarked funds had been placed on a virtual cash basis of operation in 1939.²⁰ Throughout the period in which the amendment has been in force, extensive earmarking of state funds has necessitated the balancing of the budget out of substantially less than one-half of total receipts.²¹

Gillespie, "Direct Legislation," Oklahoma Constitutional Studies, dir. H. V. Thornton [Guthrie, Okla.: Co-Operative Publishing Co., 1950], p. 123).

¹⁹Oklahoma, Session Laws (1941), T. 62, c. 1f, H.B. 461. The fate of earlier attempts at post-appropriation budgetary control in Oklahoma is described in Pray, pp. 6-12.

²⁰Oklahoma, Session Laws (1939), c. 20, art. 6, H.B. 165. In incurring obligations, the agencies operating on earmarked funds were limited to an amount equal to 90 per cent of their receipts for the previous fiscal year, plus any additional funds made available by the state or the federal government.

²¹The allocation of state tax collections is detailed in the Biennial Report of the Oklahoma Tax Commission, 1942-1956. Also see Thornton, pp. 178-79. Most specific appropriations are made from the General Revenue Fund. The legislature appropriates small amounts from minor funds, such as the Tax Commission Fund and the Conservation Fund. All other

The act of 1941, like subsequent budgetary legislation, was designed primarily to control expenditure. The legislature made no attempt to expand the terse constitutional provisions for revenue planning. Under those provisions, the State Board of Equalization is required to estimate the revenue which will accrue to the General Revenue Fund and each special fund during each year of the succeeding biennium. These estimates may not exceed the average total revenue of each fund for the three preceding fiscal years. Appropriations from the funds in excess of estimated revenues are null and void.²²

The statute of 1941 directed the State Auditor to make monthly percentage allocations of general revenue to the cash accounts for each department, institution, board, commission, or special appropriation--in the ratio of the

receipts, including federal grants, are dedicated funds (State of Oklahoma, Budget, 1952-1953, p. III).

²² Oklahoma, Constitution, Art. X, sec. 23. The State Board of Equalization is composed of the Governor, the State Auditor, the State Treasurer, the Secretary of State, the Attorney General, the State Inspector and Examiner, and the President of the Board of Agriculture (Oklahoma, Constitution, Art. X, sec. 21). A critic of the budget-balancing amendment has pointed out that the Board of Equalization "is not chosen primarily for legislative duties, and does not have to take responsibility for its estimate, or the result of its estimate upon the state financial program as a whole" (Pray, p. 18).

appropriation for each of these to the total appropriations for that fiscal year. The Auditor was forbidden to issue warrants on behalf of any agency unless there was a sufficient balance in its cash account at the time the warrants were drawn. Claims against each account were to be paid in order of presentation, and the legislature charged the administrative head of each board or agency with the responsibility of controlling the incurrence of obligations. Ear-marked revenue was to be deposited directly to the cash accounts of the agencies operating on special funds. All agencies operating on state revenue were prohibited from incurring obligations "in excess of the unencumbered balance of surplus cash on hand."²³

The Governor was empowered, in his discretion, to issue deficiency certificates to the State Auditor for the benefit of any department, institution, or agency, within the limit of its current appropriation.²⁴ A similar provision was incorporated into the Budget Law of 1947.²⁵ Such

²³Oklahoma, Session Laws (1941), T. 62, c. 1f, H.B. 461. This summary of the original vitalizing act is necessarily brief and is intended to emphasize those provisions directly involving debt control. For a more complete discussion, see Pray, pp. 12-23.

²⁴Oklahoma, Session Laws (1941), T. 62, c. 1f, H.B. 461.

²⁵Oklahoma, Session Laws (1947), T. 62, c. 1c, S.B. 36.

certificates would authorize the Auditor to issue warrants in payment of claims against agencies with insufficient cash accounts. The warrants, to be designated as a part of the public debt, may bear a maximum annual rate of interest of 4 per cent. As specified in the budget-balancing amendment, the amount of deficiency certificates to be issued during any fiscal year is limited to \$500,000.²⁶

In 1947, in a second act vitalizing the budget-balancing amendment, the legislature repealed most of the existing budgetary legislation and established the present state budget system.²⁷ The new statute provided for a Budget Director, to be appointed by the Governor, and created a Division of the Budget and a Division of Central Accounting and Reporting within the executive department. These divisions assumed the budgetary functions formerly exercised by the State Auditor, the State Examiner, and the State Board of Public Affairs.²⁸

²⁶Ibid.

²⁷Ibid. This legislation also emphasizes expenditure control and does not call for comprehensive financial planning. For a criticism of this aspect of the budget system, see Thornton, pp. 177-78.

²⁸Leslie Allen, "Oklahoma State Budget Procedures and Practices" (Norman: University of Oklahoma Bureau of Government Research, January, 1957), p. 1. (Mimeographed.)

The Budget Law of 1947 declares all appropriations "to be maximum, conditional and proportionate," and payable in full "only in the event that the estimated budget resources within each State fund during each fiscal year are sufficient to pay all of the appropriations for such fiscal year in full."²⁹ If the revenue for any fund proves insufficient, the Budget Director is required to make pro rata allotment reductions based on the ratio of each appropriation to the total of all appropriations for that fiscal year. Obligations may not be incurred in excess of unencumbered cash balances, and the administrative head of each agency is "personally liable" for controlling contracts and purchase orders.³⁰

In every biennium since the adoption of the budget-balancing amendment, the legislature has established a small

According to Allen, "The consolidation of all budgetary functions in one office constitutes an important step in the development of integrated fiscal planning and control" (ibid.).

²⁹Oklahoma, Session Laws (1947), T. 62, c. 1c, S.B. 36. A separate act provides for the monthly allocations of revenue to the cash accounts of the various agencies (Oklahoma, Session Laws [1947], T. 62, c. 1b, H.B. 30).

³⁰Oklahoma, Session Laws (1947), T. 62, c. 1c, S.B. 36. For a more complete description of the budgetary process, see Allen, passim.

fund--averaging approximately \$500,000--to meet emergency expenditure not provided for in regular appropriations and to augment any appropriation reduced by a failure of revenue.³¹ Until 1955 these funds were designated as the Governor's Contingency and Emergency Fund and were placed at the disposal of the executive department for allocation to state agencies. The creation of such funds supplemented the Governor's power to issue as much as \$500,000 of deficiency certificates during any fiscal year.³²

In several cases involving the contingency funds, the state Supreme Court revealed a sharp division of opinion over this apparent delegation of legislative power to the executive branch of government. The first suit, based on a taxpayer's complaint that the funds were prohibited under Section

³¹Oklahoma, Session Laws (1941), H.B. 539; Oklahoma, Session Laws (1943), S.B. 197; Oklahoma, Session Laws (1945), T. 74, c. 1, H.B. 518; Oklahoma, Session Laws (1947), T. 62, c. 1f, S.B. 255; Oklahoma, Session Laws (1949), T. 62, H.B. 20; Oklahoma, Session Laws (1951), T. 74, c. 13, S.B. 54; Oklahoma, Session Laws (1953), T. 62, c. 1, H.B. 532; Oklahoma, Session Laws (1955), T. 62, c. 1a, H.B. 632.

³²Since collections have always exceeded estimated revenue, the funds have never been used to supplement deficient appropriation allocations. In the event of a failure of revenue, of course, the contingency fund itself would be subject to a pro rata reduction in monthly allocations.

23 of Article X, reached the Court in 1945.³³ A majority of five justices declared that "the creation of such a cash fund was in keeping with the spirit proclaimed by the amendment to Section 23, Article 10 of the Constitution, adopted by the People, to require the operation of the state government upon a cash basis."³⁴ The other four justices objected to the provision for augmentation of appropriations reduced for lack of revenue.³⁵

Later in 1945, by another five to four decision, the Court granted an injunction invalidating eleven specific allocations from the Governor's Contingency Fund established by the Twentieth Legislature.³⁶ According to the majority opinion, debts may not be created nor expenditures made under allocations from the contingency fund where the legislature "had opportunity to act, or has failed to approve the purpose of allocation, or facts fail to show the purpose of allocation to be a contingency or emergency as provided by

³³Wells v. Childers, State Auditor, et al., 196 Okl. 339, 165 P. 2d 358 (1945).

³⁴Ibid.

³⁵Ibid.

³⁶Wells v. Childers, State Auditor, et al., 196 Okl. 353, 165 P. 2d 371 (1945).

the Legislative Act."³⁷ In two subsequent cases, the Court again upheld the discretionary power of the Governor under the contingency fund statutes.³⁸

In 1955 the legislature created the State Contingency and Emergency Fund to replace the fund formerly administered by the Governor.³⁹ The new fund was placed under the control of the State Contingency and Emergency Board, consisting of the Governor, the Attorney General, and the State Budget Director. The Board is empowered to allocate money for emergencies not foreseen by the legislature, but not for any purpose considered or acted upon by the legislature.⁴⁰

Funding Bonds of 1941

The only general state debt created under the budget-balancing amendment was authorized by the Eighteenth Legislature for funding the outstanding unpaid warrants issued during the fiscal years 1940 and 1941.⁴¹ The Oklahoma

³⁷Ibid.

³⁸Holt v. Childers, 197 Okl. 4, 168 P. 2d 890 (1946); Cope v. Childers, 197 Okl. 176, 170 P. 2d 210 (1946).

³⁹Oklahoma, Session Laws (1955), T. 62, c. 1a, H.B. 632.

⁴⁰Ibid.

⁴¹Oklahoma, Session Laws (1941), T. 62, c. 1b, S.B. 230.

Funding Bond Commission was empowered to redeem the warrants with long-term obligations or pay them out of the proceeds of bond sales.⁴² Under the terms of the statute, the funding obligations were to mature in fifteen annual installments and bear a maximum annual rate of interest of 2.25 per cent.

For the payment of interest and principal, the legislature directed the State Treasurer to deposit a sufficient monthly sum from the general revenue in the sinking fund for the bonds. Additional tax levies were pledged in the event of a deficit in the sinking fund. The issue was secured by the "full faith, credit and resources" of the state.⁴³

The Funding Bond Commission was authorized to exchange the bonds for warrants on a par for par basis, plus accrued interest, or to sell them at the highest bid above par value, plus accrued interest. The obligations were legalized as investments for financial institutions, personal investors, and public funds. Although the bonds were declared nontaxable, the income from them was not exempted

⁴²Ibid. The Funding Bond Commission was created by the act and included the Governor, the Attorney General, the State Treasurer, the State Auditor, and the Secretary of State.

⁴³Ibid.

from the state income tax.⁴⁴

The state Supreme Court was granted original exclusive jurisdiction to hear the application of the Funding Bond Commission for the issuance of each series of the bonds. The Commission was required to publicize each hearing ten days in advance to permit the filing of protests. Upon approval by the Court, the Chief Justice was to sign the bonds, and thereafter the obligations were to be incontestable in any Oklahoma court.⁴⁵

The Funding Bonds of 1941 were issued in one series, in an amount sufficient to redeem all the unpaid warrants of the two preceding fiscal years. In the proceeding for the validation of the issue, the Supreme Court pointed out that Section 23 of Article X, as amended, provided for the funding of any state indebtedness incurred prior to July 1, 1941.⁴⁶ The Court also cited all the previous decisions approving the funding of short-term obligations. "Bonds which are issued to fund a valid indebtedness," according to the opinion, "neither create nor increase the debt of the State,

⁴⁴Ibid.

⁴⁵Ibid.

⁴⁶In re Funding Bonds of 1941, Series A, 190 Okl. 8, 119 P. 2d 558 (1941).

but merely change the form of existing indebtedness."⁴⁷

As shown in Table 5, the Funding Bonds of 1941 totaled \$17,226,055 and carried coupon rates ranging from 1.25 to 2 per cent per annum. The obligations were scheduled to mature serially between 1942 and 1956. Moody's Investors Service rated these bonds "Aa."⁴⁸ On June 30, 1956, \$706,000 of the issue remained outstanding.⁴⁹

Disposition of Surpluses under the
Budget-Balancing Amendment

As shown in Table 6, surpluses of approximately \$5,000,000 to \$15,000,000 accumulated annually in the General Revenue Fund of the state during the first five years of operation under the budget-balancing amendment.⁵⁰ These surpluses accrued as a result of conservative estimates by the

⁴⁷Ibid. The issue was not contested.

⁴⁸Moody's Manual of Investments: Government Securities, 1942 (New York: Moody's Investors Service, 1942), p. 998. These obligations were exchanged for outstanding warrants (ibid.).

⁴⁹State of Oklahoma, Budget, 1958-1959, p. 184. A figure of \$10,000 was reported in Annual Report of the State Treasurer of the State of Oklahoma, 1956, p. 24.

⁵⁰With minor exceptions, all other funds represented earmarked revenue (supra, p. 86, note 21).

TABLE 5

FINANCIAL SUMMARY OF LONG-TERM GENERAL DEBT ISSUES OF THE
STATE OF OKLAHOMA, BY ISSUE, 1941-1956^a

Year	Issue	Net amount ^b	Coupon rate (per cent)	Maturity range
1941	Funding Bonds	\$17,226,055	1.25- 2.0	1942-56
1950	Building Bonds, Series 1 ^c	27,000,000	2.0	1951-73
	Series 2 ^c	<u>9,000,000</u>	2.0	1956-61
	Total	<u>36,000,000</u>		
1954- 1956	Educational Television Authority Bonds ^d	690,126	....^e	.....^e
1955	Building Bonds ^f	<u>15,000,000</u>	2.0	1973-82
	Total	\$68,916,181		

^aSources: Annual Report of the State Treasurer of the State of Oklahoma, 1942-1956; interview with John Dunn, Director, Oklahoma Educational Television Authority, Norman, Okla., January 8, 1958.

^bPar value of issues minus cancellations, if any.

^cThese obligations were originally issued in the amount of \$36,000,000 and purchased by the State Treasurer out of funds in the Official Depository Account. In 1955 the Building Bonds Commission canceled \$9,000,000 of the bonds and re-issued them as Series 2. The second series was marketed publicly.

TABLE 5--Continued

^dThese obligations were issued in four series, as follows: \$480,000 on July 26, 1954; \$140,000 on February 28, 1955; \$64,500 on June 16, 1955; and \$5,626 on January 10, 1956.

^eAll bonds were retired on the day of issuance, and no interest was paid.

^fThese obligations were purchased by the State Treasurer out of funds in the Official Depository Account.

TABLE 6

RECEIPTS, DISBURSEMENTS, AND SURPLUS OF THE GENERAL REVENUE
FUND, STATE OF OKLAHOMA, ANNUALLY, 1942-1946^a

Fiscal year	Receipts	Disbursements ^b	Surplus ^c
1942	\$31,266,357	\$23,724,358	\$ 5,476,693
1943	38,596,802	28,067,584	7,605,393
1944	34,247,962	22,269,513	9,188,564
1945	38,915,895	22,950,812	14,865,357
1946	45,750,597	29,386,369	10,776,241

^aSource: Biennial Report of the State Auditor,
State of Oklahoma, 1942-1946.

^bIncluded transfers from the Fund.

^cReceipts minus disbursements, less reserve for
contracts.

Board of Equalization, additional tax levies by the legislature, and rising revenue collections from the expanding economy of the state.⁵¹ As initially amended, however, Section 23 made no specific provision for the disposition of surplus revenue.

In the vitalizing act of 1941, the legislature created a Surplus Fund, within the General Revenue Fund, to be fed from two sources.⁵² The unencumbered balance and all subsequent allocations for appropriations canceled after the beginning of a fiscal year were to be transferred to this Surplus Fund. In addition, the revenue accruing to the General Revenue Fund after the accumulation of a sufficient amount to liquidate all original appropriations was to be deposited to the credit of the Surplus Fund. The latter fund was reserved for "emergency appropriations."⁵³

⁵¹Pray, pp. 15-18; 23. As Pray observed, "Those who thought the budget balancing amendment would result in decreased expenditures were disappointed" (*ibid.*, p. 15). The conservative revenue estimates of the Board of Equalization forced the legislature to levy "new and substantial taxes" in two of the three bienniums from 1941 to 1946 (*ibid.*, p. 18).

⁵²Oklahoma, Session Laws (1941), T. 62, c. 1f, H.B. 461.

⁵³*Ibid.* For the fiscal year 1941, a deficit of approximately \$10,000,000 was incurred in the General Revenue Fund (*supra*, Chapter II, Table 4). In fiscal 1942, however, as indicated in Table 6, above, the General Revenue Fund showed a surplus of over \$5,000,000.

Reverting to the spirit of the budget-balancing amendment, the next legislature provided for the application of surplus revenue to the reduction of the state debt. By an act of 1943, the balance of the Surplus Fund at the close of the fiscal year was transferred to a State Bond Retirement Fund for the redemption of outstanding funding bonds.⁵⁴ The Funding Bond Commission was directed to purchase all obligations offered for redemption, at no more than par plus accrued interest, to the extent of the cash available in the Retirement Fund.⁵⁵

The legislature provided for the approval of the act by the state Supreme Court prior to the purchase of any bonds. Protests were to be filed and publicized fifteen days before the hearing, and the judgment of the Court was to become final fifteen days after the hearing. At the expiration of ninety days succeeding the final judgment, the Funding Bond Commission was to transfer any balance in the Retirement Fund to surplus sinking fund accounts for the remaining outstanding

⁵⁴Oklahoma, Session Laws (1943), T. 62, c. 1c, H.B. 327. Portions of the issues of 1935, 1939, and 1941 remained outstanding in 1943.

⁵⁵Ibid. The Commission was not authorized to call the bonds, but merely to "invite" bondholders to submit them for redemption.

funding bonds. The cash in these accounts was to be invested in U.S. government bonds. In the event of a budgetary deficit, the regular allocations of general revenue to the sinking funds were to be diverted to the General Revenue Fund.⁵⁶

The Oklahoma Supreme Court validated the bond retirement act over the protests of a state taxpayer.⁵⁷ "We know of no constitutional inhibition against the use of such surplus in such manner," according to the opinion.⁵⁸ The entire surplus of \$7,605,393 for the fiscal year 1943 was thus made available for the retirement of general debt.⁵⁹

In the extraordinary session of 1944, the legislature directed the State Auditor to continue transferring Surplus Fund receipts to the surplus accounts of the sinking funds for the bonds of 1935, 1939, and 1941.⁶⁰ This law provided for the accumulation of sufficient sinking fund assets to meet the total servicing requirements on the outstanding

⁵⁶Ibid.

⁵⁷Black v. Oklahoma Funding Bond Commission, 193 Okl. 1, 140 P. 2d 740 (1943).

⁵⁸Ibid.

⁵⁹Biennial Report of the State Auditor, State of Oklahoma, 1944, p. 3.

⁶⁰Oklahoma, Session Laws (1944), T. 62, c. 1, H.B. 1.

portions of the three funding bond issues. The State Treasurer was ordered to purchase U.S. government bonds or other federal securities with the funds accruing to the surplus accounts. The federal securities were to be sold as cash was needed to retire maturing funding bonds, and the exchange of federal obligations for state bonds was also authorized. The funding bonds were to be redeemed at par plus accrued interest, with an adjustment for the differential rate of interest in any exchanges of securities.⁶¹

The same legislature proposed that the provisions for using surplus revenue to retire the state's indebtedness be written into the Constitution.⁶² Presumably, the legislators feared that the statute might subsequently be repealed.⁶³ The "sinking fund amendment," which became Section 23a of Article X, was adopted at the primary election of July 11, 1944, by a vote of 145,039 to 63,816.⁶⁴ Differing only

⁶¹Ibid.

⁶²Oklahoma, Session Laws (1944), Senate Joint Resolution No. 1.

⁶³Harmon, p. 144.

⁶⁴State Question No. 313, Legislative Referendum No. 90; Directory of the State of Oklahoma, 1957, pp. 190-91. There was no apparent opposition to the amendment (Harmon, p. 144).

slightly from the act of 1944, it provided:

Any surplus which has accrued or may hereafter accrue to the General Revenue Fund of the State of Oklahoma during any fiscal year shall be placed monthly in a sinking fund in the State Treasury to be used solely for the purpose of paying the principal and interest of the outstanding and unpaid bonded indebtedness of the State of Oklahoma. The monies and securities heretofore credited to the Surplus Accounts of the State Funding Bond Funds of 1935, 1939, and 1941 also shall be placed in said Sinking Fund. The State Treasurer shall be the custodian of said Sinking Fund and shall apply the monies and securities placed to the credit of said fund to the payment of the principal and interest of the State's bonded indebtedness. The State Treasurer with the approval of the Governor and Attorney General shall have the authority to invest the monies in said sinking fund in bonds or securities of the United States of America, and the State Treasurer with the approval of the Governor and Attorney General may sell said securities to provide funds to meet maturing State bonds and coupons. The provisions of this section shall be self-executing. When the monies credited to said sinking fund together with the monies set aside to pay said bonded indebtedness, pursuant to the statutes authorizing the issuance of said bonds, are sufficient to pay all outstanding bonds and coupons heretofore issued by the State of Oklahoma, it shall no longer be necessary to credit surplus funds to the Sinking Fund herein created. The sufficiency of said monies to fully pay the State's bonded indebtedness shall be determined by the Governor, State Treasurer, and Attorney General. After such determination any surplus monies thereafter to the credit of the State General Revenue Fund shall be subject to appropriation by the Legislature.⁶⁵

As shown in Table 7, over \$12,000,000 of general state debt was retired in the fiscal years 1943 to 1945. At

⁶⁵Oklahoma, Constitution, Art. X, sec. 23a.

TABLE 7

GROSS AND NET OUTSTANDING LONG-TERM GENERAL DEBT OF THE
STATE OF OKLAHOMA, ANNUALLY, 1941-1956^a

Fiscal year	Gross debt ^b	Net debt ^c
1941	\$22,411,781	\$21,695,000
1942	36,736,836	36,025,000 ^d
1943	29,098,000 ^e	20,802,000
1944	26,844,781	9,319,000 ^d
1945	24,632,000 ^e	.....^d
1946	23,973,681	.....^d
1947	20,375,781	.....^d
1948	17,757,781	.....^d
1949	17,650,000 ^e	799,000
1950	48,914,781	34,334,000 ^d
1951	45,535,681	31,742,000
1952	43,326,681	29,619,000
1953	37,853,681	27,002,000
1954	33,901,681	26,463,000
1955	28,816,000	25,553,000
1956	42,006,000	39,075,000

^aSources: Annual Report of the State Treasurer of the State of Oklahoma, 1941-1956; Biennial Report of the State Auditor, State of Oklahoma, 1942-1946; State of Oklahoma, Budget, 1950-1951--1958-1959; U.S., Bureau of the Census, Financial Statistics of States, 1941 (Washington: U.S. Government Printing Office, 1943); U.S., Bureau of the Census, State Finances, 1942-1946 (Washington: U.S. Government Printing Office, 1943-1947); U.S., Bureau of the Census, Compendium of State Government Finances, 1947-1956 (Washington: U.S. Government Printing Office, 1948-1957); U.S., Bureau of the Census, Revised Summary of State Government Finances, 1942-1950 (Washington: U.S. Government Printing Office, 1953).

TABLE 7--Continued

^bWhere discrepancies existed among the primary data, the outstanding debt was shown as the largest amount reported for that year. This procedure was based on the assumption that omissions in the schedules of bonded debt were more probable than erroneous inclusions. Bonds due but not presented for payment and bonds due at the end of the fiscal year were included as outstanding debt, although such obligations were not reported in all of the sources in some years. Some of the totals reported by the State Treasurer were corrected for errors of addition.

^cAs reported by the Bureau of the Census, rounded to the nearest \$1,000. These data were not reported on any consistent basis in the primary sources.

^dRevised data.

^eAs reported by the Bureau of the Census, rounded to the nearest \$1,000. These data were not reported in the primary sources.

the end of fiscal 1945, the sinking fund established by Section 23a, Article X, exceeded \$26,500,000, more than enough to retire the remaining general obligations of the state.⁶⁶ The Public Building Fund received \$1,250,000 of the surplus for 1945,⁶⁷ and the remaining surplus for 1945 and the surplus for 1946 were transferred to the State Highway Construction and Maintenance Fund.⁶⁸

In 1947 the legislature devised a new method of appropriating surplus revenue, including allocations of estimated surpluses.⁶⁹ A special fund, the Emergency Appropriation Fund, was created in the State Treasury. The Emergency Appropriation Fund was designated to receive all general revenue collections in excess of the annual estimates of the General Revenue Fund by the Board of Equalization. The legislature was authorized to make appropriations out of

⁶⁶Biennial Report of the State Auditor, State of Oklahoma, 1946, p. 15.

⁶⁷Oklahoma, Session Laws (1945), T. 62, c. 1, H.B. 11.

⁶⁸Oklahoma, Session Laws (1945), T. 69, c. 1a, H.B. 72. The remaining surplus for 1945 exceeded \$5,000,000 (Biennial Report of the State Auditor, State of Oklahoma, 1946, p. 8), and the surplus for 1946, as shown in Table 6, totaled nearly \$11,000,000.

⁶⁹Oklahoma, Session Laws (1947), T. 62, c. 1b, H.B. 30.

the Emergency Appropriation Fund for any lawful state purpose. This device permits the appropriation of both actual and estimated surpluses, although no obligations may be incurred under such appropriations in excess of cash allocations.⁷⁰

The Emergency Appropriation Fund initially received \$623,000 from the surplus in the Public Safety Fund.⁷¹

Another act of 1947 provided for transferring the surplus in the state sinking fund to the Emergency Appropriation Fund.⁷²

As shown in Table 8, the cash balance of the Fund exceeded \$15,000,000 at the end of fiscal 1947. Annual transfers to the Fund ranged from about \$11,000,000 to \$18,000,000 in the decade 1947-1956, and disbursements and transfers varied between approximately \$9,000,000 and \$20,000,000 a year.

Building Bonds of 1950

In 1949 the Oklahoma legislature proposed the issuance

⁷⁰Ibid.

⁷¹Ibid. It should be noted that this was earmarked revenue.

⁷²Oklahoma, Session Laws (1947), T. 62, c. 1b, S.B. 4. This law vitalized Section 23a, Article X, and repealed the statutory provisions of 1944 for the accumulation of surplus sinking fund accounts. It also authorized the State Treasurer to liquidate the federal securities in the state sinking fund established by Section 23a or to exchange those securities for outstanding funding bonds of the state.

TABLE 8

RECEIPTS, DISBURSEMENTS, AND CASH BALANCE OF THE
EMERGENCY APPROPRIATION FUND, STATE OF OKLAHOMA,
ANNUALLY, 1947-1956^a

Fiscal year	Receipts ^b	Disbursements ^c	Cash balance
1947	\$17,755,578	\$ 1,956,615	\$15,798,964
1948	14,404,377	15,548,433	14,654,908
1949	N.r. ^d	N.r. ^d	19,799,835
1950	10,874,805	17,163,916	13,510,725
1951	15,465,824	14,523,396	14,453,153
1952	14,828,023	17,402,682	11,878,493
1953	18,135,384	12,381,289	17,632,589
1954	10,654,982	20,447,739	7,839,831
1955	11,874,369	9,646,660	10,067,541
1956	11,681,975	8,741,216	13,008,299

^aSource: Annual Report of the State Treasurer of the State of Oklahoma, 1947-1956. All figures were rounded to the nearest \$1.

^bTransfers of surplus revenue from the General Revenue Fund.

^cIncluded transfers from the Emergency Appropriation Fund.

^dNot reported in available series of cited source.

of \$36,000,000 of general obligations for constructing, equipping, remodeling, and repairing public buildings of the state.⁷³ The measure was submitted as an amendment instead of being referred to the voters under the provisions of Section 25, Article X.⁷⁴ Under the terms of the amendment, the state was to pledge two cents of the tax on each package of cigarettes for the payment of principal and interest. Additional taxes were to be levied, if necessary, to meet the bond service requirements. The amendment specified a maximum

⁷³Oklahoma, Session Laws (1949), H.B. 465. The proposed amendment was designated as Section 31.

⁷⁴Section 25, Article X, provides for the imposition of a direct annual tax to retire any debt created under the referendum method. However, Section 9, Article X of the Constitution, was amended in 1933 to prohibit the levying of ad valorem taxes for state purposes (State Question No. 185, Legislative Referendum Measure No. 61; Directory of the State of Oklahoma, 1957, p. 183). In a ruling of 1949 issued in connection with the building bond proposal, the Attorney General questioned the validity of direct taxation as a means of retiring state obligations (Thornton, Rushing, and Wood, p. 92). "It appears now," according to a recent study of Oklahoma government, "that any State debt, approved by the people, must be accompanied by a constitutional amendment which specifies the particular form of taxation by which it shall be retired" (ibid., p. 93). As a matter of record, no state bond issue was ever proposed under the referendum provisions of Section 25, Article X. The issues submitted to a popular vote before 1933 were also offered for approval in the form of constitutional amendments (supra, Chapter II, pp. 50-53), and the Building Bonds of 1950 represented the first obligations proposed to the electorate subsequent to the amendment of Section 9, Article X (Directory of the State of Oklahoma, 1957, pp. 183-92).

maturity of twenty-five years for the obligations.⁷⁵

The electorate adopted Section 31, Article X, on September 27, 1949, by a vote of 343,900 to 239,190.⁷⁶ These bonds represented the first issue of general state debt ever approved by the voters of Oklahoma. Governor Roy J. Turner campaigned actively for the measure, with the support of alumni groups of state schools, newspapers, and radio stations.⁷⁷ According to The Daily Oklahoman, the strongest factor in favor of the building bond program was "the public demand for adequate facilities in mental hospitals."⁷⁸ Many voters, however, feared that the legislature would neglect the mental and charitable institutions in allocating the proceeds of the issue.⁷⁹

The vitalizing act created the State of Oklahoma

⁷⁵Oklahoma, Constitution, Art. X, sec. 31. The amendment did not specify any maximum rate of interest.

⁷⁶State Question No. 348, Legislative Referendum No. 99; Directory of the State of Oklahoma, 1957, p. 192. At the same election an amendment repealing prohibition was rejected by the voters (ibid.).

⁷⁷The Daily Oklahoman, September 25, 1949, p. 1.

⁷⁸Ibid. The paper noted a "general public apathy toward the issue," however, and reported that the amendment was "misunderstood in many sections and by many persons" (ibid.).

⁷⁹The Daily Oklahoman, October 6, 1949, p. 6.

Building Bonds Commission, composed of the Governor, the Attorney General, the State Auditor, the State Treasurer, and the Secretary of State.⁸⁰ The Commission was empowered to issue serial coupon bonds bearing a maximum rate of interest of 2.5 per cent per annum and maturing between 1951 and 1974 in the annual amount of \$1,500,000. Bonds with a maturity of more than ten years were to be callable, in inverse order of maturity, at par plus accrued interest.⁸¹

The legislature established a sinking fund for the bonds, in which the State Treasurer was directed to deposit the cigarette taxes collected by the Oklahoma Tax Commission. Sinking fund payments were to total \$2,600,000 annually until there were sufficient funds to retire the entire issue and pay the remaining interest on the outstanding obligations. Any funds in excess of the annual bond service requirements were to be used for redeeming callable bonds.⁸²

The statute provided an unusual method of marketing the issue. The State Treasurer was ordered to purchase as many of the obligations as possible out of public monies not

⁸⁰Oklahoma, Session Laws (1949), c. 4, H.B. 4.

⁸¹Ibid.

⁸²Ibid.

needed to meet current expenditure.⁸³ Interest earned on the investment was to be credited to the sinking fund for the bonds.⁸⁴ The Commissioners of the Land Office were directed to purchase as many of any remaining bonds as possible. Additional unsold obligations were to be marketed publicly through competitive bidding. The proceeds of all sales were to be placed in a Building Bond Fund and allocated by the legislature among the institutions of the state.⁸⁵

The authorization legalized these securities as investments for Oklahoma banks, trust companies, insurance companies, and state and local government funds. The obligations were exempted from all state taxes. Upon the approval of the State Depository Board and the Budget Director, the

⁸³Ibid. The State Depository Board was charged with the responsibility of determining the amount of funds available for investment in the bonds. This Board consists of the Governor, the Attorney General, and the State Treasurer (Oklahoma, Statutes [1951], T. 62, sec. 71).

⁸⁴Oklahoma, Session Laws (1949), c. 4, H.B. 4. State Treasurer John D. Conner first suggested the purchase of the issue by the state. He pointed out that under the policy of "farming out" deposits to banks the state received no interest on idle funds. According to the State Treasurer, there was "some objection from bankers to using the funds but it was eliminated" (The Daily Oklahoman, January 12, 1950, p. 1). In 1953 the legislature amended the authorization to require the payment of interest earned by the state into the General Revenue Fund (Oklahoma, Session Laws [1953], T. 62, c. 1a, S.B. 23).

⁸⁵Oklahoma, Session Laws (1949), c. 4, H.B. 4.

Treasurer may convert the state's investment into cash, whenever necessary, by selling bonds to the Commissioners of the Land Office or to the public.⁸⁶

The legislature also provided for the issuance of re-funding bonds, to be sold or exchanged for the original obligations. If the bonds are not maturing and are noncallable, they may be voluntarily surrendered by their holders for re-funding. Otherwise, the Building Bonds Commission must place sufficient cash in escrow in the Treasury to retire all outstanding obligations and pay all remaining interest.⁸⁷

The Commission was authorized, in its discretion, to apply to the state Supreme Court for the approval of any series of these bonds. The statute required a notice of the hearing to be published ten days in advance to permit the filing of any protests. Upon validation, the obligations were to be incontestable in any Oklahoma court.⁸⁸

The Building Bonds of 1950 were originally issued in one series of \$36,000,000, which the Supreme Court approved over the protest of an Oklahoma City bond dealer.⁸⁹

⁸⁶Ibid.

⁸⁷Ibid.

⁸⁸Ibid.

⁸⁹Application of State of Oklahoma Building Bonds Commission, 202 Okl. 454, 214 P. 2d 934 (1950).

According to the protest, the provisions for the purchase of the issue by the State Treasurer violated Section 19 of Article X, which prohibits the diversion of tax collections. But the Court declared:

Never before has it been contended that, by investing appropriated funds in securities, the funds have been devoted to a purpose other than that for which they were collected. If the interpretation contended for by protestant were enforced to the letter, no treasurer, state or county, could purchase even U.S. Government bonds. It might also be contended that no deposit could be made in a bank and a deposit slip substituted for the money itself.⁹⁰

The entire issue of the Building Bonds of 1950 was purchased by the state with funds in the State Treasury Official Depository Account.⁹¹ However, the Building Bonds Commission canceled \$9,000,000 of the bonds in 1955 and sold new obligations in lieu of that portion of the

⁹⁰Ibid. The approval of the issue was unanimous, but Justice O'Neal dissented in regard to the purchase of the bonds by the state.

⁹¹Annual Report of the State Treasurer of the State of Oklahoma, 1956, p. 25. The Official Depository Account includes funds deposited by state boards, commissions, departments, and institutions. The largest amounts are credited to the Oklahoma Tax Commission and special institutional funds (ibid., pp. 18-23). These accounts do not represent surplus receipts available for general purposes; rather, they are committed funds. Heavy withdrawals from the accounts would force the Treasurer to sell some of the Building Bonds, or borrow from other state accounts. In 1953 the Official Depository Account was overdrawn by \$5,000,000, which the Treasurer temporarily transferred from other funds (The Daily Oklahoman, July 23, 1953, p. 17).

issue.⁹² As shown in Table 5, both series carried a 2 per cent coupon rate. The bonds were scheduled to mature serially between 1951 and 1973. This issue was rated "Aa" by Moody's Investors Service.⁹³

The data in Table 7 reveal a sharp increase in the outstanding general debt of the state as a result of the issuance of the Building Bonds of 1950. Gross general indebtedness rose from less than \$18,000,000 in 1949 to almost \$49,000,000 at the end of fiscal 1950. The net general debt of the state expanded from less than \$1,000,000 to more than \$34,000,000 during the year. On June 30, 1956, \$26,300,000 of these obligations remained outstanding.⁹⁴

As shown in Table 9, the legislature appropriated

⁹²Annual Report of the State Treasurer of the State of Oklahoma, 1956, p. 25. The Commission liquidated \$9,000,000 of the Building Bonds of 1950 in order to secure sufficient cash to purchase the entire issue of the Building Bonds of 1955. "State officials thought the state could get a better deal on the interest rate and premium on the bonds of the former issue because of [the] earlier maturity date" (The Daily Oklahoman, November 10, 1955, p. 2). The \$9,000,000 series was sold to a syndicate headed by Chase Manhattan Bank (The Commercial and Financial Chronicle, November 14, 1955, p. 63).

⁹³Moody's Manual of Investments: Government Securities, 1951 (New York: Moody's Investors Service, 1951), p. 1046.

⁹⁴Annual Report of the State Treasurer of the State of Oklahoma, 1956, p. 25.

TABLE 9

APPROPRIATIONS BY OKLAHOMA LEGISLATURE FROM PROCEEDS OF
BUILDING BONDS OF 1950 FOR NEW CONSTRUCTION
AND MODERNIZATION, BY FUNCTION^a

Function	New construction	Modernization	Total
General government	\$ 425,000	\$.....	\$ 425,000
Education	11,837,766	4,490,877	16,328,643
Mental health	11,831,310	2,303,325	14,134,635
Public health and medical assistance	1,299,703	225,360	1,525,063
Public welfare	1,669,010	409,662	2,078,672
Public safety and defense	1,114,940	251,722	1,366,662
Unappropriated	.....	.....	141,325
Total ^b	\$28,177,729	\$7,680,946	\$36,000,000 ^c

^aSource: State of Oklahoma, Budget, 1952-1953, p. 393.

^bIn 1953 the legislature continued and reappropriated the appropriations of 1949 (Oklahoma, Session Laws [1953], S.B. 382).

^cIncluded unappropriated funds.

over \$28,000,000 of the proceeds of the 1950 Building Bonds for new construction, while less than \$8,000,000 was allocated for modernization of state facilities. By function, education accounted for more than \$16,000,000 and mental health over \$14,000,000 of the aggregate appropriations for new construction and modernization. The estimated federal participation in these projects totaled \$2,984,335.⁹⁵

Defeat of Veterans Bonus Bonds

The largest issue of general state obligations proposed in state financial history was submitted for popular approval in a constitutional amendment authorizing the payment of bonuses to Oklahoma veterans.⁹⁶ This measure, referred to the electorate in 1952, would have empowered the legislature to create a debt of \$125,000,000 for the compensation of veterans of World War I, World War II, and the Korean War. The proposed bonuses consisted of payments of \$10 for each month of domestic military service and \$15 for each month of overseas duty. By the terms of the amendment, veterans with no overseas service were limited to a maximum

⁹⁵State of Oklahoma, Budget, 1952-1953, p. 393.

⁹⁶Oklahoma, Session Laws (1951), H.B. 6. The proposed amendment was designated as Article XXVI of the Constitution.

bonus of \$300, while those serving outside the continental United States were entitled to a maximum compensation of \$500. The War Veterans Commission was named to administer the program.⁹⁷

For servicing the projected debt, the legislature was authorized by the amendment to levy specified severance taxes on natural resources; excise taxes on non-intoxicating beverages, cigars, cigarettes, and other tobacco products; and surtaxes on net individual and corporate incomes. The Oklahoma Tax Commission was directed to collect these taxes and deposit them in a sinking fund designated as the Armed Services Compensation Fund. The specified taxes were to be terminated within fifteen years, the maximum maturity of the obligations to be issued for financing the program.⁹⁸

The Veterans of Foreign Wars was the only major organization which actively supported the adoption of the bonus amendment. The opposition included the Oklahoma Public Expenditures Council and the "oil and gas interests."⁹⁹

⁹⁷Ibid.

⁹⁸Ibid.

⁹⁹The Daily Oklahoman, November 5, 1952, p. 18. The State Commander of the Veterans of Foreign Wars, George Morris, declared: "We are going to insist that both parties

A special veterans group, the League of Taxpaying Veterans, was organized to promote a campaign against the measure.¹⁰⁰

In the general election of November 4, 1952, the bonus program was soundly rejected by the electorate. The amendment received only 233,094 affirmative votes, compared with 639,226 negative votes.¹⁰¹ The wide incidence of the additional taxes proposed by the amendment undoubtedly contributed to its defeat.

Invalidation of Oklahoma Educational
Television Authority Bonds

The Oklahoma Educational Television Authority, a corporate instrumentality of the state, was created by the legislature in a special act of 1953.¹⁰² The agency was empowered to construct and operate educational television facilities on a coordinated, state-wide basis. Under the provisions of the act, the members of the Authority include

back up their promises made in the 1950 election to pay a bonus to all Oklahoma veterans, including Korean veterans" (The Daily Oklahoman, October 16, 1952, p. 7).

¹⁰⁰The Daily Oklahoman, October 10, 1952, p. 28.

¹⁰¹State Question No. 355, Legislative Referendum No. 102; Directory of the State of Oklahoma, 1957, p. 194.

¹⁰²Oklahoma, Session Laws (1953), H.B. 1033.

the President of the University of Oklahoma, the President of Oklahoma State University, the State Superintendent of Public Instruction, the Chancellor of the Oklahoma State Regents for Higher Education, the president of one of the four-year state-supported colleges, the president of one of the state-supported junior colleges, and seven members appointed by the Governor.¹⁰³

To finance the construction of educational television facilities, the Authority was empowered to issue bonds payable from dedicated revenues accruing to the Public Building Fund of the state. No limit was set on the aggregate amount of such obligations. The bonds were to bear a maximum annual rate of interest of 4 per cent and were to mature within forty years. The statute legalized them as investments for banks, trust companies, trust and loan associations, investment companies, and insurance companies and associations. They were to be sold publicly under a system of competitive bidding. Both the bonds and the income from them were exempted from taxation within the state.¹⁰⁴

For the payment of principal and interest, the legislature established the Oklahoma Educational Television Bond

¹⁰³Ibid.

¹⁰⁴Ibid.

Sinking Fund, to which the State Treasurer was directed to transfer unappropriated revenues accruing to the Public Building Fund. Payments from this sinking fund were limited solely to meeting the bond service requirements of the Authority. In addition, the legislature authorized the agency to enter into trust agreements pledging any fees and rentals from the projects constructed with the proceeds of bond issues. The mortgaging of the properties of the Authority was prohibited, however; and the statute provided that neither the faith and credit nor the taxing power of the state should be used to secure its obligations. Upon retirement of all indebtedness incurred for a project, the facilities were to revert to the state educational system.¹⁰⁵

Exclusive original jurisdiction was conferred upon the Oklahoma Supreme Court to hear the application of the Authority for approval of any bond issue. Such applications were to be filed at the discretion of the Authority, and a public notice of the hearing ten days in advance was required. The obligations were to be incontestable in Oklahoma upon their validation by the Supreme Court.¹⁰⁶

¹⁰⁵Ibid.

¹⁰⁶Ibid. The difficulty of marketing such an issue without validation of the bonds is obvious.

In July of 1954 the Oklahoma Educational Television Authority signed a tentative agreement for the sale of \$1,450,000 of bonds and filed an application with the Supreme Court for the validation of the issue.¹⁰⁷ The indenture assigned the assets of the sinking fund to the payment of the issue. The controlling question was whether or not the issuance of such obligations violated Section 23, Article X of the Constitution.¹⁰⁸

The majority pointed out that the bond issue would create a debt against the Public Building Fund, which had existed, in their words, as an "agency or institution" of the state since 1907. The Court admitted that it had approved the creation of debt against the Fund in the early years of statehood; but, according to the opinion, there was no constitutional prohibition against such indebtedness prior to 1941. As amended, the majority explained, Section 23 voids "any debt . . . against the State, or any department, institution or agency thereof, regardless of its form or the source of money from which it is to be paid."¹⁰⁹

¹⁰⁷Application of Oklahoma Educational Television Authority, 272 P. 2d 1027 (1954).

¹⁰⁸Ibid.

¹⁰⁹Ibid. The italics were added in the opinion.

The bonds of the Television Authority were distinguished from revenue bonds approved earlier by the Supreme Court, both before and after the amendment of Section 23.

Those bond issues and those debts . . . were fully and exclusively "self-liquidating." Here the proposed bonded debt is not at all self-liquidating. . . . The bonded debt is clearly made a debt against an existing permanent fund of the state and its future revenues.¹¹⁰

And even though in prior opinions the Court had limited the applicability of Section 23 to debts payable from taxes,¹¹¹ the majority ruled that this criterion was not decisive.

To urge applicability of that language after the 1941 amendment is to urge that the amendment affords protection from future debt against a state fund fed by tax receipts, but does not afford equal protection to a state fund fed by land sales, land rentals, oil receipts, etc., as is the permanent State Building Fund. We see no logic in that. The Public Building Fund of the state . . . serves purposes which if they were not served out of that fund, they must necessarily be served out of tax money, or the State must go without them.¹¹²

The Court concluded that Section 23 protected all

¹¹⁰Ibid.

¹¹¹Graham v. Childers, State Auditor, et al., 114 Okl. 38, 241 P. 178 (1925); Baker v. Carter, State Auditor, et al., 165 Okl. 116, 25 P. 2d 747 (1933).

¹¹²Application of Oklahoma Educational Television Authority, 272 P. 2d 1027 (1954). Surplus tax revenue was transferred to the Public Building Fund in 1945, though the Court failed to note this fact (supra, p. 107).

permanent funds of the state, whether supplied by taxes or other sources of revenue. The application of the Television Authority was denied, but by reason of the severability clause the other provisions of the act were not affected by the decision. Chief Justice Halley dissented but wrote no opinion.¹¹³

In a supplemental opinion on a petition for rehearing, the Court qualified its decision to permit the Television Authority to issue bonds payable from revenue in the Public Building Fund at the time of the hearing or accruing to the Fund during the biennium ending June 30, 1955.¹¹⁴ To obtain the cash available in the sinking fund, the Authority issued four series of bonds between July 26, 1954, and January 10, 1956, which totaled \$690,126. In each instance, the obligations were retired on the day of issuance, and no interest was paid on them. The First National Bank of Oklahoma City cooperated with the Authority in this novel financial operation.¹¹⁵ These bonds were listed in Table 5 but

¹¹³Ibid.

¹¹⁴Ibid.

¹¹⁵Interview with John Dunn, Director, Oklahoma Educational Television Authority, Norman, Okla., January 8, 1958.

were not included in any other tabulation in this study.¹¹⁶

Building Bonds of 1955

Only two issues of general debt have ever been approved by the voters of Oklahoma. A second issue of state building bonds was authorized by a constitutional amendment adopted in 1955.¹¹⁷ This measure empowered the legislature to create a debt of \$15,000,000 for new construction, capital improvements, and repairs at the schools in the state system of higher education and at other state institutions.¹¹⁸ The amendment provided for the payment of the bonds from one or more of the following sources: any revenue from the cigarette tax in excess of the annual debt service requirements on the Building Bonds of 1950;¹¹⁹ an additional tax of three cents on each package of cigarettes containing more than twenty

¹¹⁶The issue was classified as a form of general state debt in this study, inasmuch as the obligations were initially payable from state funds rather than the revenue of facilities constructed with the bond proceeds.

¹¹⁷Oklahoma, Constitution, Art. X, sec. 33.

¹¹⁸Ibid. The Oklahoma Educational Television Authority was specifically prohibited to receive any allocation from the proceeds of the issue.

¹¹⁹Ibid. Upon retirement of the Building Bonds of 1950, all cigarette taxes pledged for payment of those obligations are to be reserved for meeting the debt service requirements of the Building Bonds of 1955.

cigarettes; any surplus monies in the Public Building Fund or other state funds not supplied by ad valorem taxes; and any other necessary tax except an ad valorem levy. The maturity of the debt was limited to twenty-seven years.¹²⁰

The new building bond proposal was included in an omnibus measure approved in a special election ordered by the legislature for April 5, 1955.¹²¹ The vote was 231,097 to 73,021.¹²² At the same time the electorate adopted a series of amendments providing additional ad valorem taxes for the public schools and raising the debt limit of school districts to 10 per cent of their assessed valuations.¹²³ According to The Daily Oklahoman, the bond proposal was supported by the state institutions for higher education and their alumni groups but drew opposition from many voters who desired a measure restricted to public school finance.¹²⁴

¹²⁰Ibid. The maximum maturity of state debts created under Sections 4 and 25, Article X, is twenty-five years.

¹²¹Oklahoma, Session Laws (1955), House Joint Resolution No. 504.

¹²²State Question No. 368, Referendum Petition No. 109; Directory of the State of Oklahoma, 1957, p. 196.

¹²³Ibid. The amendments modified Sections 9, 10, and 26 of Article X and added Section 32.

¹²⁴The Daily Oklahoman, April 3, 1955, p. 1. Regarding the building bond program, the paper reported that "most

In vitalizing the amendment--Section 33 of Article X --the legislature authorized the Building Bonds Commission to issue \$15,000,000 of coupon bonds maturing serially between 1973 and 1982 and bearing a maximum annual rate of interest of 2.5 per cent.¹²⁵ A sinking fund, to consist of the cigarette tax revenue specified in the amendment, was established by the statute. The legislature pledged to provide any other funds necessary to meet the bond service requirements, except revenue from ad valorem taxes.¹²⁶

The provisions for the sale of these obligations were the same as those for the Building Bonds of 1950. The interest on any bonds held by the State Treasury was to be paid to the sinking fund. However, any surplus in the sinking fund was to be transferred annually to the General Revenue Fund, if the issue was sold to the Treasury or to the

forces for improvement have accepted it, although acceptance has been reluctant, and the support is not enthusiastic" (ibid.). Thus, besides being submitted as a separate amendment in a special election (rather than being referred to the voters at a general election under the provisions of Section 25, Article X), the measure had the additional advantage of being incorporated into an otherwise highly favored proposal.

¹²⁵Oklahoma, Session Laws (1955), T. 62, c. 1b, H.B. 937.

¹²⁶Ibid.

Commissioners of the Land Office.¹²⁷

As legal investments, the Building Bonds of 1955 were declared to have the same status as the Building Bonds of 1950. Provisions for refunding the obligations were similar to those for refunding the first issue of building bonds. The state Supreme Court was granted original jurisdiction to determine the validity of the issue.¹²⁸

Upon the application of the Building Bonds Commission, the Court approved the issuance of the Building Bonds of 1955 and their purchase by the State Treasurer.¹²⁹ According to the brief opinion, all questions of law had been settled in the earlier decision validating the Building Bonds of 1950. The issue was not contested in any way. The Court limited its findings to the regularity of the proceedings and compliance with the controlling legislation, disclaiming any responsibility for determining the merits of the issue.¹³⁰

As noted in Table 5, the Building Bonds of 1955 were

¹²⁷Ibid. A surplus was defined as any excess amount over the bond service requirements for the following year.

¹²⁸Ibid.

¹²⁹Application of the State of Oklahoma Building Bonds Commission, 288 P. 2d 366 (1955).

¹³⁰Ibid.

purchased with funds in the State Treasury Official Depository Account.¹³¹ The interest on the obligations is 2 per cent per annum. Only ten bonds were issued, and one bond is scheduled to mature each year between 1973 and 1982.¹³² Moody's Investors Service rated these obligations "Aa."¹³³

The legislature appropriated \$13,750,000 of the proceeds of the issue to the State Regents for Higher Education.¹³⁴ The State Regents allocated these funds among the institutions for higher education for construction, repairs, and modernization.¹³⁵ The remaining \$1,250,000 of the proceeds was appropriated to the State Board of Public Affairs for the expansion and improvement of facilities at other state institutions.¹³⁶

¹³¹The State Treasurer liquidated \$9,000,000 of the Building Bonds of 1950 in order to purchase the entire issue of 1955 (supra, pp. 115-16).

¹³²Annual Report of the State Treasurer of the State of Oklahoma, 1956, p. 25.

¹³³Moody's Municipal and Government Manual, 1957 (New York: Moody's Investors Service, 1957), p. 1315.

¹³⁴Oklahoma, Session Laws (1955), H.B. 966.

¹³⁵Biennial Report of the Oklahoma State Regents for Higher Education, 1956, pp. 49-50.

¹³⁶Oklahoma, Session Laws (1955), H.B. 941.

According to the data in Table 5, the two building bond issues constituted almost three-fourths of the total general state debt incurred between 1941 and 1956. The second issue, as shown in Table 7, raised the total amount of outstanding general obligations to approximately \$42,000,000 on June 30, 1956. Net general state indebtedness slightly exceeded \$39,000,000 at the end of fiscal 1956.¹³⁷

¹³⁷As noted in Table 7, the data on net debt were derived from publications of the U.S. Bureau of the Census. The Bureau of the Census defines net long-term debt as long-term debt outstanding minus offsets to long-term debt. Offsets to long-term debt include cash and investment assets of sinking funds and other reserve funds specifically held for redemption of long-term debt (Bureau of the Census, Compendium of State Government Finances, 1956, p. 62). Net indebtedness could be defined to exclude obligations held by the state, such as the Building Bonds purchased and retained by the State Treasurer in Oklahoma. Under the latter definition, Oklahoma's net general debt would amount to only \$9,000,000 (Series 2 of the Building Bonds of 1950), minus the sinking fund. However, the use of such a concept of net debt would make interstate comparisons more difficult and less meaningful, since the validity of the procedure would vary from state to state. In Oklahoma's case, the accounts invested in the Building Bonds represent funds committed to specific uses, in much the same manner that a substantial portion of the federal debt consists of securities held by trust funds. The officials of the state, it should be noted, evidently do not regard the outstanding Building Bonds as "unpaid bonded indebtedness" within the meaning of Section 23a, Article X, which required surplus general revenue to be used for the retirement of state obligations. That amendment apparently applied only to debt issued by the state prior to 1944, the year in which it was adopted (supra, pp. 103-04).

Failure of Veterans Farm and
Home Loan Program

In 1955 the legislature proposed a constitutional amendment authorizing the creation of an Oklahoma Veterans Loan Authority to make loans to veterans of the state for purchasing or improving farms and homes.¹³⁸ This measure would have empowered the Authority to issue general obligations, secured by the full faith and credit of the state, to finance the program. The total unpaid principal was not to exceed \$50,000,000 at any time. A maximum maturity of thirty-five years was specified for these bonds. The legislature reserved the power to provide for payment of interest and principal by any means except ad valorem taxation.¹³⁹

Two years earlier, similar obligations secured only by the revenue of the Loan Authority could not be marketed.¹⁴⁰ The theory of the revised program was that the guaranteed bonds

. . . could be sold, and the program would be self-sustaining, with income from interest and payment on the principal retiring the bonds in addition to

¹³⁸Oklahoma, Session Laws (1955), Senate Joint Resolution No. 1. The resolution designated the amendment as Section 34, Article X.

¹³⁹Ibid.

¹⁴⁰Infra, Chapter V, pp. 237-40.

providing operating expenses. If the program wasn't self-supporting, and losses developed, then the legislature would have to provide the money to retire the bonds and pay the interest.¹⁴¹

The veterans loan amendment was openly opposed by the Oklahoma Public Expenditures Council, the League of Tax-paying Veterans, and business groups. The opponents of the measure contended that farm loans for veterans were already available from federal agencies and that the state loan program would probably result in losses and increased taxes. Also, according to the opposition, the program would tend to inflate land values. The supporters of the amendment, including the American Legion and the Veterans of Foreign Wars, charged that the federal loan funds were inadequate and that state assistance was necessary to curtail the decline of agricultural enterprise in Oklahoma. The proponents of the issue emphasized the fact that they were advocating a lending program, rather than the payment of bonuses.¹⁴²

In the primary election of July 3, 1956, the veterans loan amendment was rejected by a vote of 236,021 to

¹⁴¹The Daily Oklahoman, June 24, 1956, p. 9A. The proposed amendment, it should be noted, did not require the Authority to attempt to operate on a self-liquidating basis.

¹⁴²Oklahoma City Times, June 20, 1956, p. 4. Also see The Daily Oklahoman, June 24, 1956, p. 9A.

133,248.¹⁴³ At the same time the electorate refused to terminate the authority of the Commissioners of the Land Office to invest in first mortgages on real estate given by state veterans.¹⁴⁴ Such a provision had been incorporated into the Constitution by an amendment of 1954.¹⁴⁵

¹⁴³State Question No. 369, Legislative Referendum No. 110; Directory of the State of Oklahoma, 1957, p. 196.

¹⁴⁴State Question No. 370, Legislative Referendum No. 111; Directory of the State of Oklahoma, 1957, p. 197.

¹⁴⁵Oklahoma, Constitution, Art. XI, sec. 6. This provision did not prove practicable, however (Oklahoma City Times, June 20, 1956, p. 4).

CHAPTER IV

BONDED DEBT OF STATE INSTITUTIONS FOR HIGHER EDUCATION

The issuance of special obligations which are payable from earnings rather than taxes is the most common method of circumventing constitutional debt limitations in the United States.¹ In Oklahoma, this type of financing originated as a means of providing funds for the construction of buildings at state institutions for higher education.² These institutions were the first state agencies empowered to create long-term indebtedness directly by issuing their own revenue bonds. Between 1924 and 1956, the eighteen state-supported schools issued almost \$37,000,000 of original self-liquidating

¹ Ratchford, American State Debts, pp. 7-8.

² The Public Building Bonds of 1910-1911 might be considered the first instance of revenue bond financing in Oklahoma, but these obligations were payable from the sale and rental of public lands rather than the earnings of the buildings (supra, Chapter II, pp. 39-44).

obligations,³ and approximately \$28,000,000 of these bonds remained outstanding at the end of fiscal 1956.⁴

Initial Development of College
Debt Financing

The legislature first authorized the issuance of college revenue bonds in 1921, but this act and a similar statute of 1923 were superseded by new legislation before any obligations were sold. In 1921 the Board of Regents of the University of Oklahoma was empowered to issue up to \$500,000 of dormitory bonds, to bear interest at the rate of 5 per cent per annum and to mature in twenty-five years.⁵ The law provided for a lien upon the buildings and the lands set apart for their construction. Interest charges were to be paid out of dormitory rentals, and the remaining net income was to be deposited in a special sinking fund in the State Treasury. The legislature stipulated that the state of Oklahoma should in no event be liable for the payment of the obligations.

³Infra, Tables 12 and 15.

⁴Infra, Table 15.

⁵Oklahoma, Session Laws (1921), c. 114, H.B. 388. The 1920's was the initial period of development of college revenue bond financing in the United States (J. G. Taylor, "College Revenue Bonds to Finance Self-Supporting Projects," The Journal of Finance, IV [1949], 328).

The Commissioners of the Land Office were directed to purchase the bonds out of the permanent public land fund of the University.⁶

In 1923 the legislature authorized a similar issue of dormitory bonds for Oklahoma Agricultural and Mechanical College.⁷ However, all of this legislation was repealed in the special session of 1923-1924. In its place the legislature granted new terms of authority for the issuance of bonds by the two schools.⁸

As shown in Table 10, the revised statute reduced the authorizations to \$300,000 for each school. The obligations were to bear interest at a rate not exceeding 6 per cent per annum and were to mature serially within a period of twenty-five years. The new law also required the Governor's approval of the bond applications. As ex-officio Bond Commissioner of the state, the Attorney General was directed to prescribe the

⁶Oklahoma, Session Laws (1921), c. 114, H.B. 388. An amendment of 1923 made the bonds legal investments for Oklahoma banks, trust companies, insurance companies, and public sinking funds. The amendment declared the obligations to be nontaxable and provided for serial retirement of the issue (Oklahoma, Session Laws [1923], c. 109, S.B. 331).

⁷Oklahoma, Session Laws (1923), c. 111, S.B. 337. Oklahoma Agricultural and Mechanical College became Oklahoma State University of Agriculture and Applied Science in 1957, but the institution is referred to by its former name throughout this chapter.

⁸Oklahoma, Session Laws (1923-1924), c. 87, S.B. 177.

TABLE 10

AUTHORIZED BOND ISSUES OF OKLAHOMA STATE INSTITUTIONS
FOR HIGHER EDUCATION, BY ISSUE, 1907-1940^a

Issue ^b	Statutory authority ^c	Amount authorized
Agricultural and Mechanical College Dormitory Public Building Bonds of the State of Oklahoma ^d	c. 87, S.B. 177 (1923-1924)	\$300,000
University Dormitory Public Building Bonds of the State of Oklahoma	c. 87, S.B. 177 (1923-1924)	300,000
University Infirmary Public Building Bonds of the State of Oklahoma	c. 104, H.B. 337 (1927)	130,000
Oklahoma Agricultural and Mechanical College Dormitory Bonds ^d	c. 34, art. 6, H.B. 432 (1931)	450,000
Oklahoma College for Women Dormitory Bonds	c. 34, art. 7, H.B. 468 (1931)	200,000
Cameron State Agricultural College Dormitory Bonds	c. 34, art. 9, H.B. 36 (1935)	200,000
East Central State Teachers College Dormitory Bonds	c. 34, art. 10, H.B. 206 (1935)	200,000
Northeastern Oklahoma Junior College Dormitory Bonds ^e	c. 34, art. 11, S.B. 72 (1935)	200,000
Central State Teachers College Dormitory Bonds	c. 34, art. 12, H.B. 491 (1935)	350,000
Northeastern State Teachers College Dormitory Bonds	c. 34, art. 13, H.B. 379 (1935)	200,000
Colored Agricultural and Normal University Dormitory Bonds ^f	c. 34, art. 14, H.B. 542 (1935)	200,000
Oklahoma Military Academy Building Bonds	c. 34, art. 15, H.B. 489 (1935)	150,000
Panhandle Agricultural and Mechanical College Dormitory Bonds	c. 34, art. 16, H.B. 536 (1935)	100,000
Southwestern State Teachers College Dormitory Bonds	c. 34, art. 17, H.B. 516 (1935)	250,000

TABLE 10--Continued

Issue ^b	Statutory authority ^c	Amount authorized
Oklahoma Agricultural and Mechanical College Dormitory Bonds ^d	c. 34, art. 22, S.B. 86 (1936-1937)	\$600,000
Connors State Agricultural College Dormitory Bonds	c. 34, art. 24, S.B. 351 (1936-1937)	100,000
Murray State School of Agriculture Dormitory Bonds ^g	c. 34, art. 25, H.B. 99 (1936-1937)	100,000
Eastern Oklahoma College Dormitory Bonds ^h	c. 34, art. 26, S.B. 406 (1936-1937)	150,000
Northwestern Teachers College Dormitory Bonds	c. 34, art. 27, H.B. 484 (1936-1937)	365,000
Southeastern Teachers College Dormitory Bonds	c. 34, art. 28, S.B. 43 (1936-1937)	350,000
University Preparatory School Dormitory Bonds ⁱ	c. 34, art. 30, S.B. 187 (1936-1937)	150,000
Oklahoma Agricultural and Mechanical College 4-H Club and Student Activity Building Bonds ^d	c. 34, art. 31, H.B. 315 (1936-1937)	180,000
		Total \$5,225,000

^aSources: Oklahoma, Session Laws (1923-1924); Oklahoma, Session Laws (1927); Oklahoma, Session Laws (1931); Oklahoma, Session Laws (1935); Oklahoma, Session Laws (1936-1937).

^bOfficial statutory designations.

^cThe citations refer to the Session Laws.

TABLE 10--Continued

^dThe school became Oklahoma State University of Agriculture and Applied Science in 1957.

^eThe school became Northeastern Oklahoma Agricultural and Mechanical College in 1943.

^fThe school became Langston University in 1941.

^gThe school became Murray State Agricultural College in 1955.

^hThe school became Eastern Oklahoma Agricultural and Mechanical College in 1939.

ⁱThe school became Northern Oklahoma Junior College in 1941.

procedure for issuance of the bonds. The statute declared the obligations to be incontestable in any Oklahoma court thirty days after certification by the Attorney General.⁹

The State Board of Public Affairs was ordered to sell the securities at par value and place the proceeds in separate dormitory funds in the State Treasury. The bonds were legalized as tax-exempt investments for Oklahoma financial institutions and public sinking funds. For the payment of interest and principal, special sinking funds were established in the State Treasury. In addition to these funds--to be derived from rentals, charges, and fees--the statute pledged accruals to the Public Building Fund, "or so much thereof as may be required," for meeting the debt service requirements.¹⁰ Thus, although no lien was placed on the buildings and land, the obligations were secured by a pledge of state funds.

In 1927, as indicated in Table 10, the legislature empowered the Board of Regents of the University of Oklahoma to issue \$130,000 of bonds for the construction of an infirmary building. This act contained substantially the same

⁹Ibid.

¹⁰Ibid.

provisions as the authorization of the dormitory bonds. The infirmary bonds, however, were to be purchased by the Commissioners of the Land Office out of the Public Building Fund. The issue was secured by the gross income of the infirmary and unpledged accruals to the Public Building Fund.¹¹

As shown in Table 11, the University and the Agricultural and Mechanical College each sold \$300,000 of dormitory bonds in 1924. Both issues bore a 5 per cent rate of interest and extended over a maturity range of twenty years. In 1927 the University also issued the maximum authorized amount of infirmary bonds, which carried a 4 per cent coupon rate and were scheduled to mature serially over a period of nineteen years. Although the sale of such obligations represented a possible contravention of the state debt limitation, the validity of these issues was never challenged in the courts.

The only suit involving these bonds originated over a decade later. In 1938 the Oklahoma Supreme Court granted an injunction compelling the Commissioners of the Land Office to impound a portion of the Public Building Fund for servicing the dormitory and infirmary bonds.¹² The order required

¹¹Oklahoma, Session Laws (1927), c. 104, H.B. 337.

¹²Weiss v. Commissioners of the Land Office, 182 Okl. 39, 75 P. 2d 1142 (1938).

TABLE 11

FINANCIAL SUMMARY OF BOND ISSUES OF OKLAHOMA STATE
INSTITUTIONS FOR HIGHER EDUCATION,
BY ISSUE, 1907-1940^a

Issue ^b	Net amount ^c	Coupon rate (per cent)	Maturity range
1924 A. & M. College Dormitory Bonds ^d	\$300,000	5	1929-49
1924 Oklahoma University Dormitory Bonds	300,000	5	1929-49
1927 University Infirmary Bonds	130,000	4	1932-51
1934 A. & M. College Dormitory Bonds ^d	445,000	4	1936-59
1934 Oklahoma College for Women Dormitory Bonds	115,000	4	1936-59
1935 Cameron Agricultural College Dormitory Bonds	71,000	4	1938-60
1935 Central State College Dormitory Bonds	325,000	4	1938-60
1935 Colored Agricultural and Normal University Dormitory Bonds ^e	119,000	4	1938-60
1935 East Central State College Dormitory Bonds	200,000	4	1938-60
1935 Northeastern Okla- homa Jr. College Dormitory Bonds ^f	77,000	4	1938-60
1935 Northeastern State College Dormitory Bonds	200,000	4	1938-60
1935 Oklahoma Military Academy Building Bonds	150,000	4	1938-60
1935 Southwestern State College Dormitory Bonds	194,000	4	1938-60
1938 A. & M. College Dormitory Bonds ^d	600,000	4	1941-63
1938 A. & M. College 4-H Club Activity Bonds ^d	180,000	5	1941-58

TABLE 11--Continued

Issue ^b	Net amount ^c	Coupon rate (per cent)	Maturity range
1938 Cameron Agricultural College Dormitory Bonds, Series 2	\$ 90,000	4	1941-63
1938 Connors Agricultural College Dormitory Bonds	73,000	5	1941-63
1938 Murray School of Agri- culture Dormitory Bonds ^g	80,000	5	1941-63
1938 Northwestern State College Dormitory Bonds	121,000	4	1941-63
1938 Panhandle A. & M. Dormitory Bonds	85,000	5	1941-63
1938 University Preparatory School Dormitory Bonds ^h	80,000	5	1941-63
1939 Oklahoma College for Women Dormitory Bonds, Series 2	20,000	3	1940-44
1940 Eastern Oklahoma A. & M. College Dormitory Bonds	80,000	4	1943-65
Total	\$4,035,000		

^aSource: Annual Report of the State Treasurer of the State of Oklahoma, 1929-1940. The tabulation excludes bond issues of institutional corporate affiliates not authorized by the legislature.

^bAs designated by the State Treasurer.

^cPar value of issues minus cancellations, if any.

TABLE 11--Continued

^dThe school became Oklahoma State University of Agriculture and Applied Science in 1957.

^eThe school became Langston University in 1941.

^fThe school became Northeastern Oklahoma Agricultural and Mechanical College in 1943.

^gThe school became Murray State Agricultural College in 1955.

^hThe school became Northern Oklahoma Junior College in 1941.

the Commissioners

. . . at all times to keep on hand sufficient cash in the Public Building Fund to pay the next annual accruals, interest and principal, on the bonds. . . . This, of course, [added the Court] contemplates that so far as possible the special sinking funds accruing from dormitory or infirmary charges, rentals and fees must still be used to liquidate the obligations of the bonds.¹³

Subsequent issues of the state institutions for higher education, it should be noted, were not secured by any secondary pledge of state funds.

Prewar Bond Issues of Corporate Affiliates

A few bond issues have been floated in Oklahoma by nonprofit corporate affiliates of the state institutions for higher education. This practice originated at about the same time as the direct issuance of institutional revenue obligations.¹⁴ The financing of a stadium at Oklahoma Agricultural and Mechanical College involved a series of four of these issues between 1927 and 1940, and an issue of the same type was floated in 1928 to finance a stadium and a student union building at the University of Oklahoma. In the absence of any statutory authority for their issuance, these obligations

¹³Ibid.

¹⁴This type of debt-financing has been employed in several states. See Stewart and Lyon, pp. 35-43.

were not considered to be a form of state indebtedness. They were excluded from all tabulations in this study.¹⁵ However, such issues merit consideration as unique cases of financing verging on the creation of self-liquidating state debt.

In 1927 the Athletic Association of Oklahoma Agricultural and Mechanical College sold \$50,000 of revenue bonds for the construction of a stadium. The bonds, marketed publicly, were secured by a first mortgage on the land and buildings, plus all funds derived from the sale of season tickets and 50 per cent of the net receipts of the stadium. Additions to the stadium were financed out of an issue of \$60,000 in 1936 and another issue of \$17,600 in 1938. In 1940 all outstanding bonds were refunded and further improvements were made out of the proceeds of a fourth issue of \$170,000.¹⁶

Two nonprofit corporations were involved in the flotation of a \$400,000 joint bond issue of 1928 which provided funds for a stadium and a student union building at the University of Oklahoma. The Board of Governors of the

¹⁵The legislature specifically authorized the issuance of obligations by the University of Oklahoma Housing Authority, a corporate affiliate chartered in 1943 (infra, pp. 177-79). These obligations were included as a component of state debt.

¹⁶Stewart and Lyon, p. 112.

Oklahoma Student Union, Incorporated, succeeded an earlier organization known as the Oklahoma Student Union--originally formed to promote the educational, literary, scientific, and religious development of University students.¹⁷ In 1923 the Board of Regents of the University was authorized to lease two acres of the campus to the Board of Governors of the Oklahoma Student Union for the construction of a student union building.¹⁸ The Trustees of the Stadium-Union Memorial Fund of the University of Oklahoma, Incorporated, functioned as a related financial corporation.¹⁹

The stadium-union bonds, issued by the latter corporation, were secured by subscriptions of alumni, students, and friends of the University; the net income of the student union and the gate receipts of the stadium; and a student fee of \$2.50 per semester.²⁰ The legality of the student fee was subsequently upheld by the Supreme Court of Oklahoma in the

¹⁷Rheam et al. v. Board of Regents of University of Oklahoma et al., 161 Okl. 268, 18 P. 2d 535 (1933).

¹⁸Oklahoma, Session Laws (1923), c. 127, S.B. 388. The legislation stipulated a payment of \$1 a year for the life of the lease, and the Board of Regents was authorized to furnish power, heat, and water for the building.

¹⁹Rheam et al. v. Board of Regents of University of Oklahoma et al., 161 Okl. 268, 18 P. 2d 535 (1933).

²⁰Stewart and Lyon, p. 122.

only case involving a bond issue of this type.²¹ The plaintiffs, a group of students, were attempting to enjoin the collection of fees that would be turned over to a private corporation. They contended that the Board of Regents was not empowered to impose such a charge as a condition of entrance to the University. The Court, however, held that the Regents were prohibited only from charging fees for tuition. The imposition of fees for the retirement of the stadium-union bonds, according to the decision, fell within the scope of the implied powers of the governing board of the University. The judgment of the trial court, denying injunctive relief, was thus affirmed.²²

The Special Fund Doctrine

In 1931 the State Board of Agriculture was authorized to issue \$450,000 of revenue bonds for the construction of dormitories at Oklahoma Agricultural and Mechanical College.²³ As indicated in Table 10, this was the fourth issue

²¹Rheam et al. v. Board of Regents of University of Oklahoma et al., 161 Okl. 268, 18 P. 2d 535 (1933).

²²Ibid.

²³Oklahoma, Session Laws (1931), c. 34, art. 6, H.B. 432. At the same time, as shown in Table 10, the legislature authorized the issuance of \$200,000 of dormitory bonds by Oklahoma College for Women.

authorized by the legislature and the largest amount approved to that time. A maximum annual rate of interest of 5 per cent was stipulated in the authorization, and only the net revenues of the dormitories were pledged to the payment of the interest and principal of the debt. Otherwise, the provisions of the statute were essentially the same as those of the legislation of 1924.²⁴

In this instance, though, the validity of the bonds was challenged by an Oklahoma taxpayer in a case reaching the state Supreme Court in 1933.²⁵ The plaintiff originally brought an action in the District Court of Oklahoma County to enjoin the issuance of the bonds, contending that the authorization violated Sections 23, 24, and 25, Article X of the Constitution of Oklahoma. He argued that the bonds would represent general obligations of the state and would exceed the \$400,000 debt limitation. According to the suit, the legislature should have provided for approval of the issue in a general election.²⁶

²⁴Ibid.

²⁵Baker v. Carter, State Auditor, et al., 165 Okl. 116, 25 P. 2d 747 (1933).

²⁶Ibid.

The Supreme Court, hearing the case on appeal, handed down a split decision based on the "special fund doctrine."²⁷ The majority, noting that Oklahoma Agricultural and Mechanical College was "a public corporation, a separate legal entity," declared that there was "no constitutional or statutory inhibition against the power or authority of the board of regents in issuing the bonds." Justice McNeill observed in the opinion that the issue was not secured by any property of the College or the state. Only the sinking fund, he noted, was

. . . pledged to the interest and principal on the bonds. No other method of payment has been provided. The payment of the bonds is limited solely to this

²⁷This doctrine, applicable to the revenue bonds of both states and municipalities, had been enunciated earlier in several state supreme court decisions. There are two principal variants of the doctrine. According to a municipal bond attorney: "We lawyers commonly refer to one line of decisions as the 'expanded special fund doctrine' and to the other as the 'limited special fund doctrine.' Under the expanded special fund doctrine a municipality may pledge existing special revenues and existing properties for the payment of the principal and interest of a new issue of revenue bonds. Under the limited special fund doctrine the municipality may pledge only the properties brought into existence by the issuance of the revenue bonds and the revenues produced by those properties. There are, however, many refinements upon both doctrines" (David M. Wood, "Legal Aspects of Revenue Bond Financing," The Journal of Finance, X [1955], 204). The Oklahoma court was apparently following the limited special fund doctrine in this case, but subsequent decisions represented an expansion of the doctrine.

special fund.²⁸

Citing the decision of Graham v. Childers,²⁹ Justice McNeill concluded that the state debt limit applied exclusively to obligations payable out of taxes. Legislative intent in the contested authorization, he asserted, was

. . . that the dormitory or dormitories proposed to be erected will earn an income sufficient to pay the principal and interest on the bonds sought to be issued. It is specifically provided that these bonds are "Oklahoma Agricultural and Mechanical College Dormitory Bonds." Does the act contravene sections 23 to 25, inclusive, of article 10 of the State Constitution? We hold that it does not.³⁰

²⁸Baker v. Carter, State Auditor, et al., 165 Okl. 116, 25 P. 2d 747 (1933).

²⁹Graham v. Childers, State Auditor, et al., 114 Okl. 38, 241 P. 178 (1925).

³⁰Baker v. Carter, State Auditor, et al., 165 Okl. 116, 25 P. 2d 747 (1933). The majority cited numerous decisions of other state supreme courts in support of the special fund doctrine. The Supreme Court of California was quoted as follows: "The overwhelming weight of judicial opinion in this country is to the effect that bonds or other forms of obligation issued by states, cities, counties, political subdivisions, or public agencies by legislative sanction and authority, if such particular bonds or obligations are secured by and payable only from the revenues to be realized from a particular utility or property, acquired with the proceeds of the bonds or obligations, do not constitute debts of the particular state, political subdivision, or public agency issuing them, within the definition of 'debts' as used in the constitutional provisions of the states having limitations as to the incurring of indebtedness" (Garrett v. Swanton, 216 Cal. 220, 13 P. 2d 725 [1932]). The development of the special fund doctrine is traced in Ratchford, American State Debts, pp. 446-66.

Three justices dissented from the decision of the majority in Baker v. Carter. The minority opinion, prepared by Chief Justice Riley, vigorously protested the Court's acceptance of the special fund doctrine. Obligations of a public corporation were obligations of the state, according to the dissenting opinion, if the public corporation was a part of the state government. Chief Justice Riley pointed out:

These bonds are to be tax exempt securities. Does not that provision of law contemplate that they are obligations of the state or one of its indivisible counterparts? Surely specific exemption from tax of a private corporation would not be sustained. Was it ever contemplated that a Board of Control of any public corporation such as a state educational institution would possess power to become involved in debt without limitation, or that so-called bonds masquerading under the guise of state securities could depreciate the good faith and credit of the state, or one of its creatures whose interests, burdens, and obligations are in fact its own? I think not. Unquestionably these buildings when erected will become the property of the state, for they are to be located upon state-owned land. The bondholders cannot maintain an action against the college nor against the state to enforce the obligation. Nor under the rule heretofore adopted by this court, are the obligations of the bonds limited to the special fund. Hence the obligation is upon the state, as much as it could ever be, to supplement the inadequacy of the special fund by general appropriation. It is a state debt.³¹

³¹Ibid. Chief Justice Riley contended that the Oklahoma court had previously rejected the special fund doctrine in Zachary et al. v. City of Wagoner, 146 Okl. 268, 292 P. 345 (1930). According to the majority, however, this case involved the direct creation of indebtedness by the municipality.

In Baker v. Carter the Oklahoma Supreme Court also considered the constitutionality of the investment of public sinking funds in revenue bonds. The majority admitted the possibility of default on the bonds but upheld the provision of the statute authorizing such investments. The loss of a sinking fund investment could not be regarded as tantamount to the creation of public debt, according to Justice McNeill, even if additional taxes were required to replenish the fund.³²

Chief Justice Riley objected vehemently to the Court's approval of a "palpable racket." The ruling of the majority, he declared, was "fallacious, refuted by its own words, unsupported by authorities, subject and likely to being damned by the designated victim and butt of its involved words, the overburdened, unsuspecting taxpayer."³³ At least this portion of the statute should have been invalidated, the Chief Justice concluded.³⁴ The authorization was approved in its entirety, however; and prior to the amendment of Section 23, Article X

³²Ibid.

³³Ibid.

³⁴Ibid. As a matter of record, no losses were ever incurred by Oklahoma taxpayers through the investment of public sinking funds in college revenue bonds. All subsequent defaults were limited to those on bonds held by federal government agencies (infra, pp. 162-64).

of the Constitution, the Court did not reconsider the constitutionality of college bonds.

Financial Summary of Prewar Borrowing

As shown in Table 11, the state institutions for higher education floated a total of \$1,290,000 of bonds between 1924 and 1934. In the three sessions immediately following the decision of Baker v. Carter, the legislature authorized seventeen additional bond issues for the construction of college buildings. Although no basic changes were made in these statutes, they appear to have been drafted more carefully than the preceding laws.³⁵ As shown in Table 10, nine authorizations were enacted in 1935. Each law in this series included detailed, uniform provisions for the financing of dormitories through bond issues.³⁶ Similar legislation of the extraordinary and regular sessions of 1936-1937 authorized a total of seven dormitory issues and the 4-H

³⁵In the 1931 statute authorizing the contested Oklahoma Agricultural and Mechanical College issue, the legislature even failed to stipulate that the bonds were not to be or become obligations of the state. This omission was not noted in Baker v. Carter, however.

³⁶Oklahoma, Session Laws (1935), c. 34: art. 9, H.B. 36; art. 10, H.B. 206; art. 11, S.B. 72; art. 12, H.B. 491; art. 13, H.B. 379; art. 14, H.B. 542; art. 15, H.B. 489; art. 16, H.B. 536; art. 17, H.B. 516.

Club and Student Activity Building Bonds of Oklahoma Agricultural and Mechanical College.³⁷ At least one issue was approved for each institution which had not previously received such an authorization. The State Board of Agriculture was empowered to issue the obligations in behalf of all agricultural and mechanical colleges, while the State Board of Education (in 1935) and the State Board of Public Affairs (in 1936-1937) were designated to act in behalf of the teachers' colleges.³⁸

As shown in Table 10, these acts empowered the various governing boards of the schools to issue aggregate amounts of bonds ranging from \$100,000 to \$600,000. In each instance the maturity range was limited to twenty-five years and the rate of interest to 5 per cent per annum. The bond applications required the approval of the Governor in most cases, and the obligations were made incontestable in any

³⁷Oklahoma, Session Laws (1936-1937), c. 34: art. 22, S.B. 86; art. 24, S.B. 351; art. 25, H.B. 99; art. 26, S.B. 406; art. 27, H.B. 484; art. 28, S.B. 43; art. 30, S.B. 187; art. 31, H.B. 315.

³⁸Oklahoma, Session Laws (1935), c. 34: art. 9, H.B. 36; art. 10, H.B. 206; art. 11, S.B. 72; art. 12, H.B. 491; art. 13, H.B. 379; art. 14, H.B. 542; art. 15, H.B. 489; art. 16, H.B. 536; art. 17, H.B. 516; Oklahoma, Session Laws (1936-1937), c. 34: art. 22, S.B. 86; art. 24, S.B. 351; art. 25, H.B. 99; art. 26, S.B. 406; art. 27, H.B. 484; art. 28, S.B. 43; art. 30, S.B. 187; art. 31, H.B. 315.

Oklahoma court thirty days after certification by the Attorney General. The statutes specified that the bonds should "not be or become an obligation of the State of Oklahoma." Provisions for the sale of the bonds, the use of the proceeds, and the payment of interest and principal remained essentially the same as in earlier legislation.³⁹

A comparison of Table 10 and Table 11 reveals that, with one exception, the schools floated all the bond issues authorized by the legislature in the prewar period.⁴⁰ Only the Southeastern Teachers College Dormitory Bonds, authorized in 1937, were never issued. In many instances, however, the schools did not market the maximum authorized amount of bonds, as a comparison of Tables 10 and 11 also discloses. In the entire period of 1924-1940, total authorizations exceeded

³⁹Ibid. All these statutes, it should be noted, required the governing boards of the institutions to carry fire and tornado insurance for the repair or replacement of damaged buildings. A separate law of 1937 authorized the boards to carry use and occupancy insurance on the buildings. The cost of the insurance was to be paid out of income derived from the operation of the buildings. In case of damage or destruction, the proceeds collected on any such policy were to be placed in the sinking fund for the payment of the interest and principal of the bonds (Oklahoma, Session Laws [1936-1937], c. 34, art. 21, S.B. 35).

⁴⁰The Oklahoma College for Women Dormitory Bonds and the Cameron Agricultural College Dormitory Bonds were issued in two series and were tabulated as separate issues in each instance.

total issues by more than \$1,000,000.

Although the legislature specifically provided for the acceptance of federal aid in only one instance, most of the bonds issued during the depression were initially purchased by the Public Works Administration or the Reconstruction Finance Corporation.⁴¹ These loans were made in conjunction with the federal program for financing state and local construction projects, including educational buildings. Beginning in 1934, the Public Works Administration offered grants of 30 per cent of the cost of labor and materials for approved projects.⁴² In 1935 the grants were increased to 45 per cent of the total cost.⁴³ Loans were available for governmental units desiring to borrow the remaining funds from the Public Works Administration, and the Reconstruction

⁴¹Stewart and Lyon, pp. 96-97. In the statute authorizing the Oklahoma Agricultural and Mechanical College 4-H Club and Student Activity Building Bonds, the legislature approved an application for federal aid on the project (Oklahoma, Session Laws [1936-1937], c. 34, art. 31, H.B. 315). This issue was marketed publicly, however, and no federal funds were contributed for the construction of the building (Stewart and Lyon, p. 108). The eastern Oklahoma Agricultural and Mechanical College Dormitory Bonds of 1940 were also marketed publicly (*ibid.*, p. 96).

⁴²U.S., Public Works Administration, America Builds: The Record of PWA (Washington: U.S. Government Printing Office, 1939), p. 37.

⁴³Ibid., p. 43.

Finance Corporation also purchased bonds issued for such projects. Most of these securities were later sold to investment dealers for placement with large life insurance companies.⁴⁴

From 1933 to 1939, the Public Works Administration aided in the construction of approximately 70 per cent of all educational buildings erected in the United States.⁴⁵ The agency contributed funds for the construction of 1,315 college and university projects costing more than \$200,000,000 in the aggregate.⁴⁶ State institutions for higher education in Oklahoma received a total of \$1,976,847 in grants during the period and sold a total of \$3,045,000 of bonds to the Public Works Administration and the Reconstruction Finance Corporation.⁴⁷ As shown in Table 11, most of these issues bore interest rates of 4 or 5 per cent.

Between 1924 and 1940, as shown in Table 12, Oklahoma state institutions for higher education floated twenty-three

⁴⁴J. G. Taylor, "College Revenue Bonds to Finance Self-Supporting Projects," The Journal of Finance, IV (1949), 329.

⁴⁵Public Works Administration, America Builds, p. 8.

⁴⁶U.S., Public Works Administration, Press Release No. 32, quoted in Commercial and Financial Chronicle, March 16, 1940, p. 1810.

⁴⁷Computed from data in Stewart and Lyon, pp. 96-97.

TABLE 12

ORIGINAL BOND ISSUES AND GROSS OUTSTANDING BONDED DEBT
OF OKLAHOMA STATE INSTITUTIONS FOR HIGHER EDUCATION,
ANNUAL TOTALS, 1924-1940^a

Year ^b	Number of issues	Net amount of issues ^c	Bonded debt outstanding ^d
1924	2	\$ 600,000	\$.....
1925	.	.....	600,000
1926	.	.....	600,000
1927	1	130,000	730,000
1928	.	.....	730,000
1929	.	.....	730,000
1930	.	.....	690,000
1931	.	.....	672,000
1932	.	.....	654,000
1933	.	.....	N.r. ^e
1934	2	560,000	1,189,000
1935	8	1,336,000	N.r. ^e
1936	.	.....	2,503,000
1937	.	.....	2,466,500
1938	8	1,309,000	2,595,000
1939	1	20,000	3,704,500
1940	1	80,000	3,615,000
Total	23	\$4,035,000	

^aSources: State of Oklahoma, Budget Requests (also titled State of Oklahoma, Budget Estimates), 1925-1927--1942-1943; Biennial Report of the State Auditor, State of Oklahoma, 1926-1940; Annual Report of the State Treasurer of the State of Oklahoma, 1929-1940. The tabulation excludes

TABLE 12--Continued

obligations issued without statutory authority by institutional corporate affiliates.

^bBond issues were tabulated by calendar years; outstanding bonded debt was reported as of the end of each fiscal year.

^cPar value of issues minus cancellations, if any.

^dWhere discrepancies existed among the primary data, the outstanding bonded debt was shown as the largest amount reported for that year. This procedure was based on the assumption that omissions in the schedules of bonded debt were more probable than erroneous inclusions.

^eNot reported in available series of cited sources.

bond issues, totaling slightly over \$4,000,000. Thus, about three-fourths of the debt issued during the period was incurred in conjunction with federally financed construction projects. At the end of fiscal 1940, according to Table 12, the gross outstanding long-term obligations of the schools amounted to approximately \$3,600,000.

Defaults on College Revenue Bonds

In Oklahoma, four educational institutions defaulted on their federal loans. The Central State Teachers College Dormitory Bonds of 1935 were in default continually until the end of World War II and were not resold to private investors until the arrearages were eliminated. The default was blamed on a delay of several months in completion of construction and the subsequent existence of excess capacity. During the war, dormitory revenues were increased by rental payments from the armed services; since the war, the college has experienced no further difficulty in meeting the debt service requirements.⁴⁸

⁴⁸ State Board of Regents of Oklahoma Colleges, Official Statement of the State Board of Regents of Oklahoma Colleges, the Regents for Central State College, Relating to 1950 Student Union Building Bonds (Edmond, Okla.: State Board of Regents of Oklahoma Colleges, 1950), p. 6.

Delays in construction initially caused interest defaults on the East Central State Teachers College Dormitory Bonds of 1935, but this situation was corrected during the 1936-1937 academic year. However, the college was forced to make principal payments out of reserves during the war, since the government would not allow full rental for the use of the building by the armed services. In the postwar period, reserves were again accumulated and the obligations were sold to private investors.⁴⁹

As a result of delayed occupancy and excess capacity, the Southwestern State Teachers College Dormitory Bonds of 1935 remained in default until 1945. The Reconstruction Finance Corporation, which held the issue, took no action other than calling the arrearages to the attention of the Board of Regents. The President of the College was ordered by the Board of Regents to pay all past due interest and principal amounts out of "available college funds," and the bonds were later sold to private investors.⁵⁰

⁴⁹State Board of Regents of Oklahoma Colleges, Official Statement of the State Board of Regents of Oklahoma Colleges, the Regents for East Central State College, Relating to 1949 Student Union Building Bonds (Ada, Okla.: State Board of Regents of Oklahoma Colleges, 1949), p. 4.

⁵⁰State Board of Regents of Oklahoma Colleges, Official Statement of the State Board of Regents of Oklahoma

The 1935 Northeastern Oklahoma Junior College Dormitory Bonds went into default in 1941. A decline in enrollment made it impossible for the College to meet the debt service requirements during the war. The school, which became Northeastern Oklahoma Agricultural and Mechanical College in 1943, refunded the issue in 1946.⁵¹

General Statutory Authority for
College Bond Issues

Between 1937 and 1945, the legislature did not authorize any specific college bond issues.⁵² In 1945, however, the boards governing eleven state institutions for higher education were granted general authority to issue bonds for constructing and equipping new buildings and additions to

Colleges, the Regents for Southwestern State College, Relating to 1954 Student Union Building and Dormitory Bonds (Weatherford, Okla.: State Board of Regents of Oklahoma Colleges, 1954), p. 6.

⁵¹Letter from Bruce G. Carter, President, Northeastern Oklahoma Agricultural and Mechanical College, Miami, Okla., April 10, 1957.

⁵²In 1938 the voters of the state rejected a proposal to authorize the issuance of "certificates of revenue indebtedness" by school districts and state institutions for higher education. These obligations were to be payable from the revenue of utility systems and other facilities constructed with the proceeds of the issues (State Question No. 205, Initiative Petition No. 142; Directory of the State of Oklahoma, 1957, p. 186).

existing buildings. Such bonds may be issued as necessary and without any limit on their aggregate amount.⁵³

The obligations are secured by the income from the buildings--dormitories, kitchens, dining halls, stadiums, "other self liquidating projects, and other revenue producing buildings." They are negotiable securities, not subject to taxation by the state or its subdivisions, and are legal investments for Oklahoma banks, trust companies, insurance companies, and the sinking funds of local governments. The statutes specified a maximum maturity of twenty-five years

⁵³Oklahoma, Session Laws (1945), T. 70: c. 1, H.B. 187; c. 1a, S.B. 41; c. 20, H.B. 382; c. 26, H.B. 462; c. 35a, S.B. 94; c. 36, H.B. 516; c. 43, H.B. 460. The schools were Central State College, East Central State College, Eastern Oklahoma Agricultural and Mechanical College, Langston University, Northeastern State College, Northwestern State College, Oklahoma Agricultural and Mechanical College, Oklahoma College for Women, Southeastern State College, Southwestern State College, and the University of Oklahoma. At the same time the legislature authorized the Board of Regents of Oklahoma Military Academy to issue \$660,000 of revenue obligations (Oklahoma, Session Laws [1945], c. 37, H.B. 444). These bonds, designated as Oklahoma Military Academy Building Bonds, were to be issued for the construction of barracks, mess halls, and a science building. The statute authorized the issuance of separate series of the obligations. As shown in Table 13, \$120,000 of these bonds was sold in 1952. In twenty-nine states, according to a recent survey, institutions for higher education may issue bonds without specific legislative approval for each issue (The Council of State Governments, Higher Education in the Forty-Eight States [Chicago: The Council of State Governments, 1952], p. 145).

and an average annual rate of interest not exceeding 5 per cent.⁵⁴

Such bonds, according to the laws, do not constitute an indebtedness of the state, the issuing institutions, or their governing boards. They are special liabilities payable solely out of revenue. To become legal obligations, however, the bonds must be examined and certified by the Attorney General. Thirty days after their approval by the Attorney General, the bonds are incontestable in any Oklahoma Court except on the grounds of forgery, fraud, or violation of the Constitution.⁵⁵

At their discretion the governing boards may apply to the state Supreme Court to determine the validity of the bonds. The Supreme Court has exclusive original jurisdiction in these proceedings. At least ten days before the hearing,

⁵⁴Oklahoma, Session Laws (1945), T. 70: c. 1, H.B. 187; c. 1a, S.B. 41; c. 20, H.B. 382; c. 26, H.B. 462; c. 35a, S.B. 94; c. 36, H.B. 516; c. 43, H.B. 460. Interest cost to maturity, computed according to standard bond tables, cannot exceed 5 per cent per annum. The bonds may not be sold at a discount, however. In 1957 the legislature increased the maximum authorized maturity of college bonds to forty years (Oklahoma, Session Laws [1957], T. 70: c. 33, S.B. 387; c. 37a, H.B. 1011; c. 40, H.B. 950; c. 43, H.B. 888; c. 44, H.B. 952).

⁵⁵Oklahoma, Session Laws (1945), T. 70: c. 1, H.B. 187; c. 1a, S.B. 41; c. 20, H.B. 382; c. 26, H.B. 462; c. 35a, S.B. 94; c. 36, H.B. 516; c. 43, H.B. 460.

notices must be published in state newspapers to permit the filing of any protests with the Court. The Court must render a written opinion approving the terms of the issue and set a time for filing a petition for a rehearing. The final decision is conclusive and thereafter the bonds are incontestable.⁵⁶

In the resolutions authorizing the bonds, each issuing board is empowered:

(a) To covenant as to the use and disposition of the proceeds of the sale of such bonds;

(b) To covenant as to the operation of the building and the collection and disposition of the revenues derived from such operation;

(c) To covenant as to the rights, liabilities, powers and duties arising from the breach of any covenant or agreement into which it may enter in authorizing and issuing the bonds;

(d) To covenant and agree to carry such insurance on the building, and the use and occupancy thereof as may be considered desirable and, in its discretion, to provide that the cost of such insurance shall be considered a part of the expense of operating the building;

(e) To vest in a trustee or trustees the right to receive all or any part of the income and revenue pledged and assigned to or for the benefit of the holder or holders of bonds issued hereunder and to hold, apply and dispose of the same. . . ;

(f) To fix rents, charges and fees to be imposed in connection with and for the use of the building and the facilities supplied thereby. . . ;

(g) To covenant to maintain a maximum percentage of occupancy of the building;

(h) To covenant against the issuance of any other obligations payable from the revenues to be derived

⁵⁶Ibid.

from the building;

(i) To make covenants other than and in addition to those herein expressly mentioned of such character as may be considered necessary or advisable to effect the purposes of this Act.⁵⁷

The agreements and covenants are declared to be binding in all respects, and the bondholders may enforce them "by appropriate action or suit at law or in equity."⁵⁸

The proceeds of the bond issues are placed in special funds in the State Treasury. The State Auditor is authorized to issue warrants against these funds, but only for the purpose for which the bonds were authorized. Revenue from the building or project must be deposited in a fund to be maintained either in the State Treasury or in a specified trustee bank. To the extent provided in the resolution authorizing the bonds, this fund may be used for the payment of the costs of operation and maintenance, as well as the payment of interest and principal.⁵⁹

Reaffirmation of the Special Fund Doctrine

As indicated in Table 13, the University and the Agricultural and Mechanical College floated the first original

⁵⁷Ibid.

⁵⁸Ibid.

⁵⁹Ibid.

TABLE 13

FINANCIAL SUMMARY OF BOND ISSUES OF OKLAHOMA STATE
INSTITUTIONS FOR HIGHER EDUCATION,
BY ISSUE, 1941-1956^a

Issue	Net amount ^b	Coupon rate (per cent)	Maturity range
1945 University of Oklahoma Logan Apartments Mortgage Bonds	\$ 24,570	4.5	1946-50
1946 Langston University Dormitory Refunding Bonds	84,000	2.25 ^d	1947-60
1946 Northeastern Oklahoma A. & M. Dormitory Refund- ing Bonds	87,000	4.0	1947-71
1946 Oklahoma A. & M. Apart- ment Dormitory Bonds ^c	325,000	1.5 ^d	1947-56
1946 Oklahoma A. & M. Build- ing Bonds ^c	1,295,000	1.75 ^d	1947-57
1946 University of Oklahoma Apartment Dormitory Bonds	275,000	2.75	1948-66
1946 University of Oklahoma Dormitory Bonds	1,440,000	1.75 ^d	1947-57
1946 University of Oklahoma Housing Authority, Terry House Mortgage Bonds	35,000	3.0	1947-69
1946 University of Oklahoma Housing Authority, White- hand House Mortgage Bonds	200,000	2.5	1947-69
1947 Langston University Stadium Bonds	75,000	4.0	1949-67
1947 Oklahoma College for Women Student Union Building Bonds	350,000	3.0 ^d	1949-72
1947 University of Oklahoma Music Building Bonds	175,000	3.5	1949-72
1948 Oklahoma A. & M. Dor- mitory Bonds, Series 1 ^c	1,225,000	4.0	1949-72
1948 Oklahoma A. & M. Dor- mitory Bonds, Series 2 ^c	3,310,000	4.0	1951-73
1948 Oklahoma A. & M. Stadium Bonds ^c	1,000,000	4.0	1951-73

TABLE 13--Continued

Issue	Net amount ^b	Coupon rate (per cent)	Maturity range
1948 Oklahoma A. & M. Student Union Building Bonds ^c	\$3,860,000	3.5- 3.75 ^d	1951-73
1948 Oklahoma A. & M. Utility System Bonds ^c	3,000,000	3.5 ^d	1951-73
1948 Southeastern State Student Union Building Bonds	725,000	4.25	1950-73
1948 University of Oklahoma Dormitory Bonds	2,400,000	3.5 ^d	1950-72
1948 University of Oklahoma Power and Heating Plant Bonds	1,800,000	3.25	1950-72
1949 East Central State College Student Union Building Bonds	250,000	3.375	1954-74
1949 University of Oklahoma Stadium Bonds	1,200,000	3.0	
1950 Central State College Student Union Building Bonds	275,000	2.9	1955-75
1950 Northeastern State College Student Union Building Bonds	275,000	2.9	1955-75
1950 Panhandle A. & M. Dormitory Bonds	250,000	2.9	1953-72
1950 University of Oklahoma Dormitory and Commissary Bonds	3,000,000	3.125	1952-75
1950 University of Oklahoma Dormitory Refunding Bonds	2,380,000	3.125 ^d	1953-72
1951 Oklahoma College for Women Dormitory Extension Bonds	275,000	2.75- 3.5	1954-76
1951 University of Oklahoma Stadium Refunding Bonds	963,000	2.25- 2.5	1955-69

TABLE 13--Continued

Issue	Net amount ^b	Coupon rate (per cent)	Maturity range
1952 Oklahoma A. & M. Building Bonds--Library and Equipment ^c	\$2,400,000	3.5 ^d	1957-77
1952 Oklahoma Military Academy Building Bonds	120,000	4.0 ^d	1957-77
1952 Southeastern State College Student Union Building Refunding and Dormitory Revenue Bonds	910,000 ^e	4.0	1956-77
1952 Southeastern State College Student Union Building and Dormitory Refunding and Revenue Bonds	935,000	4.0	1956-77
1954 Northeastern State College Refunding and Dormitory Bonds	350,000 ^f	3.75	1955-79
1954 University of Okla- homa Refunding and Dormitory Bonds	6,400,000 ^g	3.3	1955-79
1954 Southwestern State College Student Union Building Bonds	650,000	3.25- 4.0	1961-79
1955 Central State College Dormitory, Stadium, and Recreational Bonds	250,000	3.5- 3.75	1961-80
1955 East Central State Col- lege Revenue Bonds	100,000	3.0	1956-65
1955 Eastern Oklahoma A. & M. Student Union Building Bonds	350,000	3.75	1957-80
1955 Northwestern State College Student Union Building Bonds	160,000	4.25- 4.75	1960-80

TABLE 13--Continued

Issue	Net amount ^b	Coupon rate (per cent)	Maturity range
1956 Northern Oklahoma Junior College Student Union Building and Dormitory Bonds	\$ 225,000	3.5	1959-80
Total	\$43,403,570		

^aSources: Annual Report of the State Treasurer of the State of Oklahoma, 1941-1956; Robert Bruce Stewart and Roy Lyon, Debt Financing of Plant Additions for State Colleges and Universities (West Lafayette, Ind.: Purdue Research Foundation, 1948), pp. 97, 117. The tabulation excludes bonds issued in 1949 by the Board of Governors of the Oklahoma Student Union, Incorporated. It does not include any issues registered after June 30, 1956.

^bPar value of issues minus cancellations, if any.

^cThe school became Oklahoma State University of Agriculture and Applied Science in 1957.

^dHigher rates during initial years of maturity range, varying from 3.5 to 5 per cent.

^eRefunded later in the year out of the proceeds of Southeastern State College Student Union Building and Dormitory Refunding and Revenue Bonds.

^fIncluded obligations for refunding \$76,000 of Dormitory Bonds of 1935.

^gIssued to refinance \$220,000 of 1946 Dormitory Bonds; \$2,240,000 of 1950 Dormitory Refunding Bonds; \$2,960,000 of 1950 Dormitory and Commissary Bonds; and to acquire other dormitories and make additions and repairs.

bonds issued under the provisions of the new statutes.⁶⁰ The Regents of both schools applied to the Oklahoma Supreme Court to determine the validity of the initial issues. The opinions in these hearings reaffirmed the special fund doctrine enunciated in Baker v. Carter, despite the severe restrictions on the incurrence of debt subsequently imposed by the amendment of Section 23, Article X of the Constitution.

The Board of Regents of the University of Oklahoma sought the Court's approval of a \$275,000 issue of apartment dormitory bonds in 1945. In a brief opinion validating the issue, the Court held the new legislation "neither contrary to nor in derogation of the constitutional limitations placed upon legislative authority!"⁶¹ This finding was based on a decision exempting the bonds of the Grand River Dam Authority from the provisions of the "budget-balancing

⁶⁰The first issue of the University listed in Table 13, the Logan Apartments Mortgage Bonds, represented a special financial arrangement. The University mortgaged the land and building but did not pledge the income of the apartments. This issue was sold privately to an insurance company (Stewart and Lyon, p. 117). The property, a grant by the University Scholarship Corporation, is operated as an auxiliary enterprise by the University. The mortgage was carried as a liability against the endowment fund, however. This debt was retired between 1945 and 1952 out of the net income of the apartments (University of Oklahoma, Report of the Comptroller [also titled Financial Report], 1946-1952).

⁶¹Application of Board of Regents of University of Oklahoma, 195 Okl. 641, 161 P. 2d 447 (1945).

amendment."⁶²

As amended in 1941, Section 23 prohibits agencies and institutions operating on state revenues from incurring obligations in excess of available cash funds. And although the state institutions for higher education are partially dependent on appropriations, unlike the Grand River Dam Authority, the Court made no "material distinction" between the two cases. The significance of the earlier decision lay in the definition of debt adopted by the court. As Chief Justice Gibson concluded in that opinion:

The term "debt or deficiency" as used in the title [of the amendment] necessarily includes an indebtedness for the payment of which resort may be had to State revenue. It is only such debts that would be involved in balancing the budget. There is nothing on which to predicate a contention that the people contemplated the inhibition of a debt that did not involve the revenues or resources of the State.⁶³

The bonds of the University, according to the Court, represented special revenue obligations rather than an indebtedness of the state or the Board of Regents.⁶⁴

⁶²State ex rel. Kerr, Governor, v. Grand River Dam Authority, 195 Okl. 8, 154 P. 2d 946 (1945).

⁶³Ibid.

⁶⁴Application of Board of Regents of University of Oklahoma, 195 Okl. 641, 161 P. 2d 447 (1945).

In 1946 the Court approved a similar issue of bonds for Oklahoma Agricultural and Mechanical College.⁶⁵ Later in the year, however, the majority rejected a second application of the Regents of the University.⁶⁶ In this instance the Board sought approval of a \$1,300,000 issue of dormitory bonds and a \$100,000 issue of music building bonds. Both resolutions included a provision for supplementing deficient revenue with the proceeds of fees to be imposed on all students in attendance at the University. Although no protest was filed, the Court refused to approve either issue, holding these provisions to be illegal.⁶⁷

According to the statute of 1945, the Regents were "to fix rents, charges and fees to be imposed in connection with and for the use of the building and the facilities."⁶⁸ "A careful study of the Act," declared the majority of the Court, "leads to the inevitable conclusion that the Legislature intended that each building so constructed, when put

⁶⁵Application of Board of Regents for Oklahoma Agricultural and Mechanical Colleges, 196 Okl. 622, 167 P. 2d 883 (1946). This issue consisted of \$325,000 of bonds for converting barracks into apartments.

⁶⁶Application of Board of Regents of University of Oklahoma, 197 Okl. 327, 171 P. 2d 597 (1946).

⁶⁷Ibid.

⁶⁸Oklahoma, Session Laws (1945), T. 70, c. 1a, S.B. 41.

to the use for which it was intended, should produce sufficient revenue to liquidate the bonds issued for the construction thereof, and that the bonds should be paid solely from the income received from the use and occupation of such buildings."⁶⁹ The statute of 1945, according to the majority, superseded the Regents' general powers regarding the imposition of fees. Justice Welch, in his dissenting opinion, disputed the majority's interpretation of the bond resolution. The rule of law, he insisted, was correct but inapplicable.⁷⁰

Postwar Financing through
Corporate Affiliates

The legislation of 1945 also provided an alternative method of acquiring buildings and additions to buildings. The governing boards of the various schools were authorized to organize nonprofit corporations which may lease campus sites for the construction and operation of buildings. Fees and charges may be imposed on students to cover the costs of operation, maintenance, and amortization. Upon final payment

⁶⁹Application of Board of Regents of University of Oklahoma, 197 Okl. 327, 171 P. 2d 597 (1946).

⁷⁰Ibid. These bonds were never sold, but in 1947, as shown in Table 13, the University issued \$175,000 of Music Building Bonds.

of the cost of the building and retirement of all obligations, the lease is to be terminated and the building is to become the property of the institution.⁷¹

No corporate affiliates have been created under these provisions, but three bond issues have been floated in the postwar period by similar agencies. The obligor of two of these issues was the University of Oklahoma Housing Authority, a nonprofit corporation chartered directly by the legislature in 1943.⁷² The Authority was authorized to lease, purchase, or erect and operate dormitories and dining facilities for the students of the University. Although it functioned as a separate legal entity, the Housing Authority was governed by a board of directors identical with the membership of the Board of Regents of the University.⁷³

⁷¹Oklahoma, Session Laws (1945), T. 70: c. 1, H.B. 187; c. 1a, S.B. 41; c. 20, H.B. 382; c. 26, H.B. 462; c. 35a, S.B. 94; c. 36, H.B. 516; c. 43, H.B. 460.

⁷²Oklahoma, Session Laws (1943), T. 70, c. 32, H.B. 274. In the same session the legislature authorized similar agencies for Oklahoma Agricultural and Mechanical College and Southeastern State College (Oklahoma, Session Laws [1943], H.B. 283 and H.B. 367). However, neither of these authorities ever issued any obligations (letters from John C. Monk, College Attorney, Oklahoma Agricultural and Mechanical College, Stillwater, Okla., April 24, 1957; A. E. Shearer, President, Southeastern State College, Durant, Okla., April 11, 1957).

⁷³Oklahoma, Session Laws (1943), T. 70, c. 32, H.B. 274.

The legislature specifically empowered the Authority to create indebtedness by issuing bonds and notes and executing mortgages on property owned in its name. It was denied the power to create any indebtedness payable out of taxes, assessments, or any funds of the state or any subdivision, institution, or agency of the state. The governing board of the Authority was directed to establish a sinking fund for the retirement of its obligations.⁷⁴

Since the issues of this agency were specifically authorized by the legislature, they were included in Table 13. The \$35,000 debt incurred by the Housing Authority on Terry House in 1946 represented a privately negotiated purchase money mortgage.⁷⁵ The Whitehand House issue of \$200,000, secured by a first mortgage on the building plus the net income, was publicly marketed.⁷⁶ Terry House was sold during the fiscal year 1948, and the net surplus was transferred to the Whitehand House account.⁷⁷ Almost half

⁷⁴Ibid.

⁷⁵Stewart and Lyon, p. 97.

⁷⁶Ibid.

⁷⁷University of Oklahoma, Report of the Comptroller, 1948, p. 17.

the debt on the latter dormitory had been retired by the end of fiscal 1956.⁷⁸

In 1945 the Board of Regents of the University was authorized to lease a portion of the campus to the Board of Governors of the Oklahoma Student Union, Incorporated, for the erection of additions to the student union building.⁷⁹ The statute provided for a ninety-nine year lease, renewable by the agreement of both parties. The annual rental was limited to \$1, and the Regents were authorized to furnish heat, light, power, and water for the building. The statute also empowered the Regents to fix fees and charges sufficient to cover the expenses of operation and maintenance and the amortization of the cost of the additions.⁸⁰

The statute did not authorize the issuance of additional bonds, but the Board of Governors subsequently floated \$2,300,000 of special revenue obligations to finance the construction of the project. The bonds, issued in 1949, were scheduled to mature serially between 1950 and 1979. At the

⁷⁸University of Oklahoma, Financial Report, 1956, p. 21. At that time the outstanding debt totaled \$111,000.

⁷⁹Oklahoma, Session Laws (1945), T. 70, c. 32d, S.B. 42.

⁸⁰Ibid.

end of the fiscal year 1956, \$1,988,000 of the issue remained outstanding.⁸¹ Since there was no legislative authority for their issuance, these obligations were not included in this study as a component of state debt.

Liberalization and Extension of General
Statutory Authority for College
Debt Financing

In 1947 the legislature liberalized the provisions for college debt financing and extended general authority for the issuance of revenue bonds to the governing boards of all except two schools in the state system of higher education.⁸² Northern Oklahoma Junior College was not granted such power

⁸¹Biennial Report of the Oklahoma State Regents for Higher Education, 1956, p. 71.

⁸²Oklahoma, Session Laws (1947), T. 70: c. 33b, S.B. 74; c. 40, S.B. 175; c. 43, S.B. 309; c. 45e, S.B. 143. The eighteen state-supported institutions for higher education and their auxiliary agencies form the "Oklahoma State System of Higher Education." Since 1941 the system has functioned under the general direction of the Oklahoma State Regents for Higher Education. In 1945 the Board of Regents for Oklahoma Agricultural and Mechanical Colleges assumed direct control of the eight agricultural colleges, including Langston University. Since 1947 the Board of Regents for Oklahoma Colleges has governed the six teachers' colleges. The other institutions--Northern Oklahoma Junior College, Oklahoma College for Women, Oklahoma Military Academy, and the University of Oklahoma--are controlled by their own boards of regents (Biennial Report of the Oklahoma State Regents for Higher Education, 1956, pp. 79-81).

until 1955,⁸³ and a \$660,000 bond issue limit on Oklahoma Military Academy was not removed until 1957.⁸⁴ Besides amending three sections of the 1945 statutes, the legislature added a new section authorizing the schools to borrow on notes in anticipation of the delivery of a bond issue.⁸⁵

The legislation of 1947 broadened the purpose for which college bonds may be issued to include the construction or acquisition of utility systems for supplying water, gas, heat, and power. The allowable capacity of such systems was limited to "the present or reasonably contemplated future needs" of the institutions, though any temporary surplus may be sold to other public or nonprofit consumers. As a means of servicing the debt incurred for these facilities, the governing boards were authorized to charge and collect fees

⁸³Oklahoma, Session Laws (1955), T. 70, c. 44, S.B. 134. In 1951 the legislature authorized \$100,000 of Northern Oklahoma Junior College Stadium Bonds (Oklahoma, Session Laws [1951], T. 70, c. 44, H.B. 474), but these obligations were never issued.

⁸⁴Oklahoma, Session Laws (1957), T. 70, c. 37a, H.B. 1011.

⁸⁵These changes were not incorporated into the statute extending general authority for the issuance of bonds to Panhandle Agricultural and Mechanical College (Oklahoma, Session Laws [1947], T. 70, c. 33b, S.B. 74). However, the Board of Regents for Oklahoma Agricultural and Mechanical Colleges is empowered to issue bonds under the liberalized provisions for and in behalf of all agricultural colleges (Oklahoma, Session Laws [1947], T. 70, c. 45e, S.B. 143).

from all students in attendance at the institutions.⁸⁶

The statutes of 1945 legalized the purchase of college revenue bonds by banks, trust companies, insurance companies, and the sinking funds of local units of government. An amendment in 1947 also authorized the investment of any fund of the state, or any department, agency, or institution of the state, in such securities. The various funds established for the teacher retirement system were specifically included in the amendment.⁸⁷

As mentioned above, the 1947 laws empowered the governing boards of the schools to borrow funds, if necessary, by issuing notes prior to the delivery of a series of bonds. These short-term loans are restricted to the principal amount of the bonds, and the rate of interest may not exceed the average rate of interest on the bonds. The notes must mature within one year but are renewable. If for any reason the bonds are never issued, the holders of the notes are

⁸⁶Oklahoma, Session Laws (1947), T. 70: c. 40, S.B. 175; c. 43, S.B. 309; c. 45e, S.B. 143. College revenue bonds secured by student fees are highly favored by purchasers, particularly when the fees "are levied against the entire student body. In a sense, the fee smacks of a tax and gives the bonds the flavor and backing of a tax obligation" (Taylor, The Journal of Finance, IV [1949], 334).

⁸⁷Oklahoma, Session Laws (1947), T. 70: c. 40, S.B. 175; c. 43, S.B. 309; c. 45e, S.B. 143.

entitled to assume the rights of bondholders.⁸⁸

Expansion of the Special Fund Doctrine

Subsequent to the enactment of the legislation of 1947, the Oklahoma Supreme Court handed down three important decisions on college debt financing. Two of these cases involved the financing of utility systems, and the other opinion determined the validity of dormitory extension and improvement bonds. The decisions in these cases represented an expansion of the Oklahoma special fund doctrine.

In 1948 the Board of Regents of the University of Oklahoma applied to the Supreme Court for approval of an issue of \$1,800,000 to finance the construction of an extensive power and heating plant.⁸⁹ The resolution of the Regents provided for the imposition of student fees and charges against the auxiliary enterprises of the University for services, power, and heat. For the payment of interest, principal, and redemption premiums, the Regents pledged the fees and any

⁸⁸Ibid. The general authorizations for Northern Oklahoma Junior College (Oklahoma, Session Laws [1955], T. 70, c. 44, S.B. 134) and Oklahoma Military Academy (Oklahoma, Session Laws [1957], T. 70, c. 37a, H.B. 1011) incorporated all the changes included in the legislation of 1947.

⁸⁹Application of Board of Regents of University of Oklahoma, 200 Okl. 442, 195 P. 2d 936 (1948).

general revenue in excess of the costs of operation, maintenance, and improvements. In the event revenue proved insufficient to cover the costs of operation and maintenance, the Board reserved the right to apply "money currently available from the general operating and maintenance funds of the University."⁹⁰

This application presented three specific questions to the Court:

(1) Whether a student fee can be pledged and collected for the purpose of paying principal of and interest on the bonds until all bonds and interest due thereon are paid.

(2) Whether a student fee may be imposed and collected during construction of the power and heating plant to meet interest and principal requirements during said period.

(3) Is the Bond issue a debt of the State by reason of provision . . . that the Board of Regents may in its discretion make up deficiency of revenue necessary for operation and maintenance through application of money currently available from general operating and maintenance funds of the University?⁹¹

The Court answered the first two questions in the affirmative. Citing the amendment of 1947 authorizing the construction of utility systems, the majority concluded that the collection and pledging of student fees constituted a necessary part of the financial plan for such a project. As

⁹⁰Ibid.

⁹¹Ibid.

to the second question, the Court remarked that it would have been "paradoxical" to deny the Regents power to collect fees prior to completion of the system. Such action was held to be an integral part of the entire plan. In answer to the third question, the Court pointed out that the provision for use of general University funds

. . . is not a discretion to apply state money to the payment of any part of the principal or interest on the bonds. On the contrary, as shown by the quoted portion . . . of the resolution, this is a discretion to apply this state money to "the necessary expenses of operating and maintaining the system, including the costs of insurance and necessary replacements, renewals and repairs." This is wholly different from applying or using state money to pay on the bonds. This is an application of state money that would be necessary in the operation by the state of a state owned heat and power plant no matter how the plant had been acquired.

.
Thus by analysis of the plan and its detail it is conclusively demonstrated that this discretion to apply state money for the purpose specifically stated, but for no other purpose, does not in any manner affect the bond debt and does not cause the bond debt nor any part of it to be a debt or obligation of the State, and we answer the stated question No. 3 in the negative.⁹²

Two justices dissented from the majority opinion approving the issue. Their basic objection was that the legislation of 1945 and 1947 did not authorize such a project. The provision for the use of state funds, they argued, obviously meant that the utility system was not intended to be

⁹²Ibid.

self-liquidating, as required by the statutes.⁹³

Later in 1948 the Supreme Court was asked to consider an application of the Board of Regents for Oklahoma Agricultural and Mechanical Colleges for the approval of a \$3,000,000 utility system issue. This project consisted of improvements for a power and heating plant and the acquisition of a water system for Oklahoma Agricultural and Mechanical College. The bonds were designated special obligations payable solely from student fees and revenue derived from the sale of surplus products and services.⁹⁴

The major question raised in the application concerned the size and capacity of the water system. The legislation of 1947 specifically prohibited the schools from issuing bonds for utility systems "whose capacity is in excess of the present or reasonably contemplated future needs of such institutions." Despite the fact that the College exhibited a proposed twenty-five year contract to furnish the city of Stillwater with water from the system, the Court held the terms of the issue to be in compliance with the 1947 law and approved

⁹³Ibid.

⁹⁴Application of Board of Regents, Oklahoma Agricultural and Mechanical Colleges for "Utility System Revenue Bonds, Series 1948," 201 Okl. 54, 200 P. 2d 901 (1948).

the bonds.⁹⁵

The dissenting opinion of three justices condemned the arrangement as a contravention of statutory authority. "It may be conceded," Justice Gibson observed, "that a student fee may be imposed for the erection of a facility for the use and enjoyment of such student but never before has it been held that a student fee may be imposed for the part payment of the cost of construction of a utility erected for the purpose of supplying the water needs of the students and in addition the water needs of a city for a period of 25 years with renewal privileges."⁹⁶ The Board of Regents, he declared, had acted beyond its authority; the bonds should have been disapproved.⁹⁷

Improvement bonds secured by income from dormitories originally built with state funds were explicitly approved by the Supreme Court in 1951. This case involved an issue of

⁹⁵Ibid. Under the terms of the contract, the city of Stillwater agreed to pay the College a minimum of \$76,000 annually. The contract was renewable. According to an engineering report submitted in the proceedings: "It is expected that the City will shut down their present plant, keeping it intact for emergencies, as with the minimum payment required it will be most economical for the City to purchase all of its treated water" (ibid.).

⁹⁶Ibid.

⁹⁷Ibid.

\$200,000 for the extension and improvement of two dormitories at Oklahoma College for Women. The Board of Regents sought the Court's approval of the bonds as a condition of sale.⁹⁸

In validating the issue, the Court cited two decisions in which similar pledges of income were upheld. One of these cases involved the issuance of college bonds for converting former government barracks into apartment dormitories.⁹⁹ In the other instance, the Court had approved a provision for charging admission fees to state park areas improved in part with the proceeds of revenue bonds.¹⁰⁰ The statutes of 1947, it should be noted, authorized the issuance of bonds secured by revenue from buildings constructed or improved "in whole or in part" with the proceeds.¹⁰¹

⁹⁸Application of Board of Regents of Oklahoma College for Women, 204 Okl. 385, 230 P. 2d 453 (1951).

⁹⁹Application of Board of Regents for Oklahoma Agricultural and Mechanical Colleges, 196 Okl. 622, 167 P. 2d 883 (1946). In this hearing, however, the Court did not specifically consider the applicability of the special fund doctrine to improvement bonds.

¹⁰⁰Application of Oklahoma Planning and Resources Board, 201 Okl. 178, 203 P. 2d 415 (1949).

¹⁰¹Oklahoma, Session Laws (1947), T. 70: c. 40, S.B. 175; c. 43, S.B. 309; c. 45e, S.B. 143.

Refunding of College Bonds

In 1945 the legislature authorized the refunding of outstanding dormitory bonds to relieve defaults, reduce rates of interest, and extend maturities over a longer period of time.¹⁰² The act established a Dormitory Bonds Funding Commission to negotiate refunding operations in behalf of the institutions for higher education. This Commission was composed of the Governor, the Attorney General, the State Superintendent of Public Instruction, the President of the State Board of Agriculture, and the Chancellor of the State Board of Regents of Higher Education. Refunding issues were not to exceed the sum of the unpaid principal and delinquent interest on the original obligations. They were to mature within twenty-five years and were to bear no higher rate of interest than the outstanding bonds.¹⁰³

In providing for the payment of the refunding bonds, the legislature imposed strict requirements on officials having charge of dormitory funds. All fees, charges, rentals, and other income from the buildings were to be deposited daily in the school's Official Depository Account in the

¹⁰² Oklahoma, Session Laws (1945), T. 70, c. 16, S.B. 162.

¹⁰³ Ibid.

State Treasury. A sufficient amount of revenue was to be transferred monthly to the Dormitory Funding Bond Sinking Fund of the school to meet the bond service requirements. Surety bonds were to be required of the president of the institution and the official in charge of dormitory funds. The State Examiner and Inspector was directed to audit the dormitory accounts.¹⁰⁴

Only one refunding operation was carried out under the provisions of this statute. The 1935 Colored Agricultural and Normal University Dormitory Bonds were refinanced in 1946 out of the proceeds of the Langston University Dormitory Refunding Bonds. This issue was refunded in order to reduce the rate of interest on the outstanding securities.¹⁰⁵ As shown in Table 13, the refunding issue totaled \$84,000 and bore a coupon rate of 2.5 per cent after the initial period of maturity.

The Northeastern Oklahoma Agricultural and Mechanical College Dormitory Refunding Bonds, also floated in 1946, were issued under a special arrangement. The original obligations,

¹⁰⁴Ibid.

¹⁰⁵Letter from Thelma Woodson, Assistant Secretary, Board of Regents for the Oklahoma Agricultural and Mechanical Colleges, Stillwater, Okla., June 26, 1957.

the Northeastern Oklahoma Junior College Dormitory Bonds, went into default in 1941. To eliminate arrearages and extend the maturity of the debt, the Board of Regents for Oklahoma Agricultural and Mechanical Colleges sold refunding bonds to a life insurance company headed by the chairman of the Board.¹⁰⁶ This issue, as shown in Table 13, totaled \$87,000. The interest rate of 4 per cent remained unchanged, but the final serial maturity was extended to 1971.

In 1947 the governing boards of most of the state schools were empowered to sell or exchange obligations for refunding any outstanding bonds. This provision was included in the amendments to the general authorizations of 1945.¹⁰⁷ Northern Oklahoma Junior College and Oklahoma Military Academy were granted similar powers in their general authorizations of 1955 and 1957.¹⁰⁸

The refunding bonds may be issued separately or in

¹⁰⁶Letter from Bruce G. Carter, President, Northeastern Oklahoma Agricultural and Mechanical College, Miami, Okla., April 10, 1957.

¹⁰⁷Oklahoma, Session Laws (1947), T. 70: c. 40, S.B. 175; c. 43, S.B. 309; c. 45e, S.B. 143.

¹⁰⁸Oklahoma, Session Laws (1955), T. 70, c. 44, S.B. 134; Oklahoma, Session Laws (1957), T. 70, c. 37a, H.B. 1011.

combination with original obligations. If the securities to be refunded are not maturing and are noncallable, they may be voluntarily surrendered by their holders. Otherwise, the issuing board must covenant to place sufficient funds in escrow in the State Treasury to meet the remaining debt service requirements. The legislation does not restrict the purposes of refinancing.¹⁰⁹

The first refunding obligations issued under these provisions were the 1950 University of Oklahoma Dormitory Refunding Bonds. The University accounted for three of the six refunding operations carried out between 1950 and 1956, as shown in Table 13. Southeastern State College and Northeastern State College also issued refunding bonds during the period. Table 14 summarizes the refinancing of college revenue bonds over the entire postwar decade. The institutions for higher education floated a total of \$10,624,000 of refunding obligations, according to Table 14.

¹⁰⁹Oklahoma, Session Laws (1947), T. 70: c. 40, S.B. 175; c. 43, S.B. 309; c. 45e, S.B. 143; Oklahoma, Session Laws (1955), T. 70, c. 44, S.B. 134; Oklahoma, Session Laws (1957), T. 70, c. 37a, H.B. 1011. Refunding provides a means of consolidating several existing liens in a new issue, as well as reducing the rate of interest or extending the maturity of outstanding obligations (Stewart and Lyon, pp. 164-65). The Oklahoma educational institutions have apparently utilized their refunding authority for all of these purposes.

TABLE 14

REFUNDING BOND ISSUES OF OKLAHOMA STATE INSTITUTIONS FOR
HIGHER EDUCATION, ANNUAL TOTALS, 1946-1956^a

Year	Number of issues ^b	Total amount refunded
1946	2	\$ 171,000
1947	.	.....
1948	.	.....
1949	.	.....
1950	1	2,380,000
1951	1	963,000
1952	2 ^c	1,614,000 ^c
1953	.	.....
1954	2	5,496,000 ^d
1955	.	.....
1956	.	.....
Total	8	\$10,624,000

^aSource: Table 13. No refunding bonds were issued prior to 1946.

^bSeparate refunding issues or issues including both original and refunding obligations.

^cSoutheastern State College issued \$910,000 of Student Union Building Refunding and Dormitory Revenue Bonds in 1952 and refunded the outstanding Student Union Building Bonds of 1948 with part of the proceeds. Later in the same year the former issue was refunded out of the proceeds of a \$935,000 issue of Student Union Building and Dormitory Refunding and Revenue Bonds. Both refunding operations were included in the tabulation.

^dIncluded refunding of \$2,240,000 of University of Oklahoma Dormitory Refunding Bonds of 1950.

Financial Summary of Postwar Borrowing

According to Table 13, the University of Oklahoma and Oklahoma Agricultural and Mechanical College floated about half of the postwar bond issues of the state institutions for higher education. The University accounted for thirteen issues, including two separate refundings, while the Agricultural and Mechanical College marketed eight issues. Other institutions accounted for one or two issues each. No obligations were issued during the period by Cameron State Agricultural College, Connors State Agricultural College, or Murray State Agricultural College. Northeastern Oklahoma Agricultural and Mechanical College refunded a dormitory issue in 1946, as explained above, but did not sell any original bonds in the postwar decade.

As indicated in Table 13, these obligations were issued for a variety of purposes. Most of the projects were noninstructional facilities, such as dormitories and student union buildings, although a music practice building at the University and a library at Oklahoma Agricultural and Mechanical College were financed out of revenue bond proceeds. The original issues ranged in size from \$24,570 for an apartment project at the University of Oklahoma to \$3,860,000 for a student union building at the Agricultural and Mechanical

College. The largest single issue of the period, totaling \$6,400,000, consisted of the University of Oklahoma Refunding and Dormitory Bonds of 1954.

Coupon rates on the institutional obligations, as shown in Table 13, varied considerably over the postwar decade. In general, these variations reflected the fluctuating cost of borrowing in the municipal bond market between 1945 and 1956.¹¹⁰ The rates also varied according to the purpose of issue and, apparently, with the credit standing of the school. It may further be observed that the coupon rates varied directly with the maturity of the issues, and, as noted in Table 13, several issues bore higher rates of interest during the initial years of maturity. Some of the issues carried multiple rates of interest based on the maturity of specific obligations comprising the series.

Several of the postwar college bond indentures included provisions for redeeming obligations prior to maturity. Some of the bonds are callable at par value plus accrued

¹¹⁰The coupon rates did not necessarily represent the cost of borrowing to the institutions. Effective rates of interest were lower on all issues which were bought at a premium. However, variations in the coupon rates corresponded generally to fluctuations in state and local government bond yields over the period (Board of Governors of the Federal Reserve System, Federal Reserve Chart Book on Financial and Business Statistics: Historical Supplement [Washington: Board of Governors of the Federal Reserve System, 1957], pp. 44-45).

interest, but in other cases a redemption premium must be paid. The usual requirement is that the bonds must be called in inverse order of maturity.¹¹¹ The privilege of callability permits either refinancing or retirement of the obligations.¹¹²

The total volume of the postwar college bond issues enumerated in Table 13 exceeded \$43,000,000. As shown by Table 15, almost \$33,000,000 of this amount constituted original long-term debt. According to Table 15, over half of these new obligations were floated in 1948, following the liberalization and extension of general statutory authority for the issuance of college revenue bonds. Table 15 also discloses the rapid postwar growth of the gross bonded debt of the institutions for higher education. In 1941 their outstanding bonds totaled \$3,554,500. This debt was reduced slightly during the war, but the heavy volume of postwar borrowing increased outstanding college obligations to more than \$28,000,000 in 1952. At the end of fiscal 1956, the aggregate gross debt of the schools amounted to \$27,777,000.

¹¹¹Moody's Investors Service, Moody's Municipal and Government Manual, 1957, pp. 1321-22.

¹¹²The advantages of retiring institutional bonds prior to maturity include the reduction of debt load, the improvement of the credit standing of the school, and the freeing of existing liens on revenue (Stewart and Lyon, p. 162).

TABLE 15

ORIGINAL BOND ISSUES AND GROSS OUTSTANDING BONDED DEBT OF
OKLAHOMA STATE INSTITUTIONS FOR HIGHER EDUCATION,
ANNUAL TOTALS, 1941-1956^a

Year ^b	Number of issues	Net amount of issues ^c	Bonded debt outstanding ^d
1941	.	\$.....	\$ 3,554,500
1942	.	.....	3,422,000
1943	.	.....	N.r. ^e
1944	.	.....	3,089,000
1945	1	24,570	N.r. ^e
1946	6	3,570,000	3,550,355
1947	3	600,000	6,697,830
1948	8	17,320,000	6,985,710
1949	2	1,450,000	N.r. ^e
1950	4	3,800,000	24,946,440
1951	1	275,000	26,726,300
1952	4 ^f	2,751,000	28,290,500
1953	.	.....	27,304,000
1954	3	1,904,000	27,799,500
1955	4	860,000	26,997,000
1956 ^g	1	225,000	27,777,000
Total	37	\$32,779,570	

^aSources: Annual Report of the State Treasurer of the State of Oklahoma, 1941-1956; Biennial Report of the State Auditor, State of Oklahoma, 1942-1946; University of Oklahoma, Report of the Comptroller (also titled Financial Report), 1946-1956. The tabulation excludes bonds issued in 1949 by the Board of Governors of the Oklahoma Student Union, Incorporated.

TABLE 15--Continued

^bBond issues were tabulated by calendar years; outstanding bonded debt was reported as of the end of each fiscal year.

^cPar value of issues minus cancellations, if any. Where issues consisted in part of refunding bonds, those obligations were excluded from the tabulation.

^dAs reported by the State Treasurer and the State Auditor, but adjusted to include the mortgage debt against the University of Oklahoma Logan Apartments and the obligations issued by the University of Oklahoma Housing Authority. Some of the totals reported by the State Treasurer were corrected for errors of addition. Where discrepancies existed among the primary data, the outstanding bonded debt was shown in adjusted form as the largest amount reported for that year. This procedure was based on the assumption that omissions in the schedules of bonded debt were more probable than erroneous inclusions.

^eNot reported in available series of cited sources.

^fIncluding the Southeastern State College Student Union Building Refunding and Dormitory Revenue Bonds, which were refunded later in the year out of the proceeds of the Southeastern State College Student Union Building and Dormitory Refunding and Revenue Bonds.

^gTo June 30.

CHAPTER V

BONDED DEBT OF STATE AGENCIES

Obligations issued by agencies other than the institutions for higher education constitute the largest amount of the state debt of Oklahoma. At the end of fiscal 1956, approximately two-thirds of the state's total gross long-term indebtedness consisted of the outstanding self-liquidating bonds of the Grand River Dam Authority, the Oklahoma Planning and Resources Board, and the Oklahoma Turnpike Authority.¹ These obligations are secured by the revenue of facilities constructed with the bond proceeds and were held by the state Supreme Court to be exempt from the constitutional

¹State of Oklahoma, Budget, 1958-1959, pp. 184-85. This statement was the first regular official report of the total debt of Oklahoma since 1938. The outstanding bonds of the Grand River Dam Authority and the Oklahoma Turnpike Authority were previously excluded from the schedules of bonded debt in the Budget and in the reports of the State Auditor and State Treasurer. Data on total state debt for the entire period of statehood are presented in Chapter VI.

debt limitation.² Although the Grand River Dam Authority issued one series of bonds prior to 1941, the bulk of this debt was incurred subsequent to the adoption of the "budget-balancing amendment."³ Three bond issues of state agencies were rejected by investors in the securities market in 1954.⁴

Grand River Dam Authority Bonds of 1938

Acting under the provisions of Section 31, Article II of the Constitution,⁵ the legislature in 1935 established a state conservation and reclamation district under the auspices of the Grand River Dam Authority.⁶ The district originally included the counties of Adair, Cherokee, Craig, Creek, Delaware, Mayes, McIntosh, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, and Washington.⁷ The Authority was "declared to be a governmental agency

²These cases are discussed below, in conjunction with the specific bond issues.

³Infra, Table 16.

⁴Infra, pp. 237-40; 244-48.

⁵This section empowers the state to engage in business for public purposes.

⁶Oklahoma, Session Laws (1935), c. 70, art. 4, S.B. 395.

⁷Ibid. An amendment of 1937 removed three counties from the district: Osage, Rogers, and Washington (Oklahoma, Session Laws [1936-1937], c. 70, art. 2, H.B. 3).

and body politic and corporate, with the powers of government" to control the waters of the Grand River and its tributaries for purposes of irrigation, conservation, reclamation, and the generation of hydro-electric power.⁸ For the management of the Authority, the legislature originally provided a board of nine directors, three to be appointed by the Governor, three by the Attorney General, and three by the Commissioner of Labor.⁹

The Authority was empowered to appoint officers, agents, and employees; to make contracts; and to sue and be sued in its corporate name. In exercising its specified functions, the agency was authorized to acquire and use property in its own name and to construct and maintain all necessary facilities. The act enabled the Authority to borrow money;

⁸Oklahoma, Session Laws (1935), c. 70, art. 4, S.B. 395. The Authority was originally forbidden to engage in the retail distribution of electric power, but this restriction was repealed in 1937 (Oklahoma, Session Laws [1936-1937], c. 70, art. 2, H.B. 3).

⁹Oklahoma, Session Laws (1935), c. 70, art. 4, S.B. 395. In 1939 the membership of the board was reduced to five directors, to be appointed by the Governor (Oklahoma, Session Laws [1939], c. 70, art. 2, S.B. 139). An act of 1943 gave the Governor summary power to dismiss and replace the members of the board (Oklahoma, Session Laws [1943], T. 82, c. 8, S.B. 88). In 1955 the membership of the board was increased to seven directors (Oklahoma, Session Laws [1955], T. 82, c. 8, H.B. 562).

but no bonds, notes, or evidence of indebtedness could be issued except by specific legislative authorization. The Authority was denied the power to levy taxes or pledge the credit of the state. All of its operating expenses and obligations were to be paid solely from earnings.¹⁰

The statute of 1935 authorized the Grand River Dam Authority to incur a maximum debt of \$15,000,000. The bonds were to be marketed publicly or privately, if sold for cash, and the Board of Directors was empowered to arrange the terms of any issue exchanged for property. All obligations were to bear a maximum effective rate of interest of 6 per cent per annum. The act permitted the inclusion of redemption provisions in any indenture, but the redemption premium was

¹⁰Oklahoma, Session Laws (1935), c. 70, art. 4, S.B. 395. The Grand River Dam Authority was apparently the first autonomous state agency established in Oklahoma under specific statutory authority. It was undoubtedly modeled after similar authorities in other states. The initial period of extensive development of public authorities in the United States began in 1921 and was terminated by World War II (The Council of State Governments, Public Authorities in the States, pp. 21-28). A petition to establish an Oklahoma state liquor system on \$400,000 of borrowed funds was defeated in the general election of 1936. The proposed liquor system was to be operated by an independent commission (State Question No. 222, Initiative Petition No. 151; Directory of the State of Oklahoma, 1957, p. 186). Another agency, the Fairfax-Kaw City Authority, was created by the legislature in 1939 (Oklahoma, Session Laws [1939], c. 70, art. 4, S.B. 220) but was evidently never activated. The latter authority was empowered to issue a maximum of \$3,000,000 of bonds for conservation and electric power projects.

limited to 5 per cent. Refunding bonds were also authorized by the legislation. No maximum maturity was specified for either original or refunding obligations.¹¹

The Authority was forbidden to mortgage or otherwise encumber its properties, or to sell or dispose of more than \$50,000 of assets during any twelve-month period. However, the legislature did not prohibit the agency from entering into an agreement for the appointment of a receiver in the event of a default. All bonds were to be approved by the Attorney General and registered by the State Auditor prior to issuance. The securities and the interest on them were exempted from all state and local taxes, except the inheritance tax.¹²

The act of 1935 was scheduled to expire on July 1, 1937, unless a project was commenced by that date; but the next legislature extended the authority for the program to July 1, 1939.¹³ On October 16, 1937, the Grand River Dam

¹¹Oklahoma, Session Laws (1935), c. 70, art. 4, S.B. 395. A majority of directors was required to approve all bond resolutions. In refunding outstanding debt, the directors were authorized only to exchange new bonds for old ones.

¹²Ibid.

¹³Oklahoma, Session Laws (1936-1937), c. 70, art. 1, S.B. 299.

Authority entered into an agreement with the Federal Works Administration for the sale of \$11,563,000 of bonds.¹⁴ A suit to enjoin the issuance of the obligations was appealed from the District Court of Craig County and reached the Oklahoma Supreme Court early in 1938.¹⁵

The plaintiff, a taxpayer and property owner of the district, contended that the statute creating the Authority was special or local, rather than general, legislation.¹⁶ He also charged violation of Sections 23, 25, and 26, Article X of the Constitution. Regarding the first contention, the majority concluded that the act "has a uniform operation throughout the state and that the classification and distinctions made therein are reasonable . . . and affect equally all coming within its scope."¹⁷ Under the rule of ejusdem generis, the majority denied the applicability of Section 26,

¹⁴Grand River Dam Authority Audit Report, 1939, p. 4.

¹⁵Sheldon v. Grand River Dam Authority et al., 182 Okl. 24, 76 P. 2d 355 (1938).

¹⁶Ibid. The passage of special or local legislation is restricted by Sections 32, 46, and 59, Article V of the Constitution.

¹⁷Ibid. The legislation creating the Grand River Dam Authority was distinguished from a general law relating to conservation and reclamation districts. These districts were not empowered to issue revenue bonds.

Article X, which prohibits any local unit of government or "other political corporation, or subdivision of the State" from incurring debt without the approval of three-fifths of the voters.¹⁸ This rule, according to the opinion, meant that Section 26 applied only to bodies of the same general nature or class as those enumerated. The Grand River Dam Authority, the majority insisted, constituted "a governmental agency or public corporation, with limited powers," rather than a "political corporation, or subdivision of the State." It was pointed out that the Authority was not organized for governmental purposes, had no power to tax, and was not subject to popular control.¹⁹

The Court cited two controlling cases in overruling the applicability of Sections 23 and 25, Article X. These decisions, based on the "special fund doctrine," were Baker v. Carter and Boswell v. State.²⁰ According to the majority:

¹⁸Ibid. The significance of the pertinence of Section 26 lay in the fact that the Court had previously refused to apply the "special fund doctrine" to bond issues of subdivisions of the state (Zachary et al. v. City of Wagoner, 146 Okl. 268, 292 P. 345 [1930]).

¹⁹Sheldon v. Grand River Dam Authority et al., 182 Okl. 24, 76 P. 2d 355 (1938).

²⁰Baker v. Carter, State Auditor, et al., 165 Okl. 116, 25 P. 2d 747 (1933); Boswell v. State et al., 181 Okl. 435, 74 P. 2d 940 (1937).

From those two cases it has become an established rule that the special fund doctrine may be invoked in a restricted sense in this state as an exception to the debt limitation provisions of sections 23 and 25 of article 10 of the Constitution. The act in question falls squarely within the special fund doctrine as established in Baker v. Carter. . . . The project is purely self-liquidating. The act does not pledge any existing revenues of the state or of the Authority, and does not pledge any revenues derived from taxation. . . . In the event of the failure of revenues from the properties to be acquired by the District, the state is under no obligation to make up the loss.²¹

Justices Corn and Phelps wrote separate dissenting opinions, which supported the plaintiff's contention that the laws of 1935 and 1937 represented local legislation. Justice Phelps also argued in favor of the application of Section 26, Article X.²² The majority decision, however, validated a total of \$12,700,000 of revenue bonds of the Grand River Dam Authority.²³

As shown in Table 16, the original issue of the Grand River Dam Authority totaled \$14,000,000. The agreement for the placement of the remaining \$1,300,000 of bonds was signed subsequent to the adoption of the budget-balancing amendment,

²¹Sheldon v. Grand River Dam Authority et al., 182 Okl. 24, 76 P. 2d 355 (1938).

²²Ibid.

²³On July 26, 1940, the Federal Works Administration agreed to purchase slightly over \$1,000,000 more of the bonds of 1938 (Grand River Dam Authority Audit Report, 1940, p. 3).

TABLE 16

FINANCIAL SUMMARY OF BOND ISSUES OF AGENCIES OF THE
STATE OF OKLAHOMA, BY ISSUE, 1907-1956^a

Year	Issue	Net amount ^b	Coupon rate (per cent)	Maturity range
1938	Grand River Dam Authority Bonds	\$14,000,000	4.0	1943-76
1946	Grand River Dam Authority Refund- ing Bonds	14,000,000	2.5	1948-86
1949	Grand River Dam Authority Bonds, Series A	9,300,000	3.25- 3.5	1952-78
	Series B	<u>13,800,000^c</u>	2.5	1988
	Total	<u>23,100,000</u>		
1949	Lake Murray Park Improvement Bonds	850,000	4.0	1979
1950	Turner Turnpike Bonds	31,000,000	3.0- 4.0	1958-90
1952	Turner Turnpike Bonds	7,000,000	3.75	1990
1954	State Park Improve- ment Bonds	7,200,000 ^d	4.5	1984
1954	Northeastern Turn- pike Bonds ^e	68,000,000	3.25- 3.75	1962-93
	Total	<u>\$165,150,000^f</u>		

^aSources: Grand River Dam Authority Audit Report, 1939-1956; Annual Report of the State Treasurer of the State

TABLE 16--Continued

of Oklahoma, 1950-1956; Moody's Investors Service, Moody's Manual of Investments: Government Securities, 1951-1954 (New York: Moody's Investors Service, 1951-1954); Moody's Investors Service, Moody's Municipal and Government Manual, 1955-1956 (New York: Moody's Investors Service, 1955-1956). The tabulation excludes issues of public trusts classified legally as state agencies. The beneficiaries of those trusts were local units of government.

^bPar value of obligations issued and marketed.

^cEntire series for refunding outstanding Grand River Dam Authority Refunding Bonds of 1946.

^d\$850,000 of issue for refunding Lake Murray Park Improvement Bonds.

^eNortheastern Turnpike became Will Rogers Turnpike in 1955.

^fIncluded \$136,500,000 of original obligations and \$28,650,000 of refunding bonds.

and a new suit was filed to prevent the delivery of the obligations.²⁴ The plaintiff argued that Section 23 of Article X, as amended in 1941, canceled the power the the Authority to incur additional indebtedness. The Oklahoma Supreme Court, however, interpreted the new agreement with the Federal Works Administration as an amendment of the original contract. And, according to the decision, the bonds already purchased by the government could not be paid unless the Authority were permitted to issue the additional obligations and complete the project. "It thus seems clear," the Court concluded, "that to nullify the authority previously granted by the Legislature to issue and sell sufficient bonds to complete the project . . . would very seriously impair the obligations of the existent contracts of the Authority."²⁵ The unanimous opinion was that the amendment of Section 23 did not invalidate the bonds.²⁶

As Table 16 discloses, the issue of 1938 carried an interest rate of 4 per cent. The obligations were scheduled

²⁴Wickham v. Grand River Dam Authority, 189 Okl. 540, 118 P. 2d 640 (1941).

²⁵Ibid.

²⁶Ibid. The issue was not contested on any other ground.

to mature serially between 1943 and 1976. The proceeds of this issue and a federal grant of approximately \$11,000,000 were used to finance the Pensacola Dam project.²⁷

Grand River Dam Authority Refunding
Bonds of 1946

The federal government, acting through the Secretary of the Interior and the Federal Works Administrator, operated the Pensacola Dam installation from November 21, 1941, to August 31, 1946. During this period the Grand River Dam Authority was paid a monthly rental for maintaining its "essential corporate functions," but the agency did not attempt to retire any of its bonds on schedule. Under the terms of a "turnback settlement agreement" signed on August 1, 1946, the federal government consented to a readjustment of the debt.²⁸

For the period of November 1, 1941, to July 1, 1946, the rate of interest on the bonds held by the government was reduced to 2.5 per cent.²⁹ The original obligations were

²⁷Grand River Dam Authority Audit Report, 1941, p. 4. The \$1,300,000 of bonds validated in Wickham v. Grand River Dam Authority was not delivered until 1946 (infra, p. 211, note 31).

²⁸Grand River Dam Authority Audit Report, 1947, pp. 2-3.

²⁹Ibid., p. 3.

then exchanged for the Grand River Dam Authority Refunding Bonds of 1946.³⁰ The latter issue was authorized by a resolution of August 22, 1946, and totaled \$14,000,000.³¹

As shown in Table 16, the refunding bonds of 1946 bore an annual rate of interest of 2.5 per cent. They were scheduled to mature serially between 1948 and 1986. This issue was refunded in 1949, however.³²

Grand River Dam Authority Bonds of 1949

In 1939 the legislature increased the bond authorization of the Grand River Dam Authority to \$25,000,000, with the proviso that \$10,000,000 of the proceeds should be used to construct dams at Markham's Ferry and Fort Gibson.³³ Six

³⁰Ibid., p. 16. A statute of 1945 liberalized the original provisions for refunding the Authority's outstanding obligations. This legislation granted broad powers for the sale or exchange of refunding bonds (Oklahoma, Session Laws [1945], T. 82, c. 8, H.B. 147).

³¹Grand River Dam Authority Audit Report, 1947, p. 16. During the period of federal operation of the Pensacola project, the government held only \$12,700,000 of the issue of 1938. However, the \$1,300,000 of bonds approved in Wickham v. Grand River Dam Authority was delivered in 1946, and the entire issue was refunded at that time (ibid., p. 3).

³²Infra, p. 215.

³³Oklahoma, Session Laws (1939), c. 70, art. 3, H.B. 653. It should be noted that this authorization was not contested in any way in Wickham v. Grand River Dam Authority.

years later, the Authority proposed to issue \$10,000,000 of these obligations, plus the \$1,000,000 of bonds remaining under the authorization of 1935. An original action by the state, on relation of the Governor, sought an injunction against the issue on the ground that the budget-balancing amendment had repealed the authorization.³⁴

As amended in 1941, Section 23 of Article X prohibits "any department, institution or agency of the State operating on revenues derived from any law or laws which allocate the revenues thereof to such department, institution or agency" from incurring "obligations in excess of the unencumbered balance of surplus cash on hand." The legislature is forbidden to authorize the creation of indebtedness against any department, institution, or agency of the state, "regardless of its form or source of money from which it is to be paid." However, the Oklahoma Supreme Court refused to apply the amendment to the Grand River Dam Authority.

We hold it to be manifest [the Court declared] that the word "revenues" as used has reference to revenue provided under the taxing power of the State, and the word "obligations" has reference to an indebtedness for the payment of which resort, previous to such amendment, might properly be had to the taxing power of the State. And, hence, it follows that

³⁴State ex rel. Kerr, Governor, v. Grand River Dam Authority, 195 Okl. 8, 154 P. 2d 946 (1945).

agencies such as defendant Authority that do not operate in whole or in part on State revenue as defined and whose obligations cannot become debts of the State are not within the purview of said provisions of the amendment inhibiting creation of indebtedness in excess of current revenue.³⁵

Thus, the revenue bonds of the Grand River Dam Authority were exempted from the constitutional debt limitation "by reason of its character as a self liquidating agent."³⁶

Later in 1945, the authorization of 1939 was amended to permit the construction of hydro-electric plants at either Markham's Ferry or Fort Gibson, and the Authority was granted new powers to buy, sell, and interchange electricity in its area of operation.³⁷ However, no additional original bonds were issued until 1949, when the legislature further liberalized the provisions for debt-financing by the agency.³⁸ The

³⁵Ibid.

³⁶Ibid. This opinion was cited as the controlling decision in the initial case involving college revenue bonds issued after 1941 (Application of Board of Regents of University of Oklahoma, 195 Okl. 641, 161 P. 2d 447 [1945]).

³⁷Oklahoma, Session Laws (1945), T. 82, c. 8a, H.B. 161. By the same act the Authority was empowered to acquire federal surplus war property, including generating and distributing facilities.

³⁸Oklahoma, Session Laws (1949), T. 82, c. 8, S.B. 71. The Grand River Dam Authority Refunding Bonds of 1946 technically constituted a series in a proposed aggregate issue of \$25,000,000, but the other obligations were never sold (Grand River Dam Authority Audit Report, 1947, p. 16).

statute of 1949 authorized the issuance of \$25,000,000 of bonds for the construction or acquisition of dams and/or hydro-electric power plants at Markham's Ferry and/or Fort Gibson. The act also empowered the Authority to incur a debt of \$25,000,000 for purchasing a steam generating plant and related facilities at the Oklahoma Ordnance Works near Chouteau.³⁹

As shown in Table 16, the Grand River Dam Authority issued two series of bonds in 1949, totaling \$23,100,000. Series A consisted of \$9,300,000 of original obligations which were sold to underwriters for cash.⁴⁰ According to Table 16, these bonds carried interest rates of 3.25 to 3.5 per cent and were scheduled to mature between 1952 and 1978.

³⁹Oklahoma, Session Laws (1949), T. 82, c. 8, S.B. 71. The provisions for the issuance of bonds were essentially the same as those in the original authorization of 1935. The Authority was forbidden to pay more than \$7,000,000 for the steam generator, which was federal property. In 1947 the Authority was empowered to sell surplus property acquired from the federal government (Oklahoma, Session Laws [1947], T. 82, c. 8, H.B. 237), and this power was also granted in the legislation of 1949.

⁴⁰Grand River Dam Authority Audit Report, 1949, p. 13. This series totaled \$11,000,000, but the remaining bonds were never issued. It should be noted that the Authority attempted to market these obligations in 1948, but Public Service Company of Oklahoma delayed their issuance by a suit filed in the District Court of Craig County (Grand River Dam Authority Audit Report, 1948, p. 9). This series and the accompanying series of refunding bonds were thus dated 1948.

The proceeds of this issue were used to purchase the steam generating plant at Chouteau and to acquire other facilities.⁴¹

The Series B Bonds, representing refunding obligations, were exchanged May 17, 1949, for all the outstanding bonds held by the Federal Works Administration.⁴² As shown in Table 16, the refunding issue totaled \$13,800,000. The rate of interest on this indebtedness was maintained at 2.5 per cent, but the maturity of all the obligations was extended to 1988. Both series of the bonds are callable.⁴³

The data in Table 17 reveal a small increase in the outstanding debt of the Authority during the initial years of operation. The sale and delivery of additional bonds issued under the original authorization raised the total of outstanding obligations from \$10,000,000 in 1938 to \$14,000,000 in 1946. Only a small amount of this indebtedness had been retired by 1949, and the issuance of new

⁴¹Grand River Dam Authority Audit Report, 1949, p. 3. The indenture for this issue may not be amended without the approval of the holders of 75 per cent of the bonds (Moody's Investors Service, Moody's Municipal and Government Manual, 1957, p. 1323). The issuance of additional bonds would require such approval. In this connection, it should be noted that the bond issue limit of the Authority was raised to \$110,000,000 in 1957 (Oklahoma, Session Laws [1957], T. 82, c. 8a, S.B. 268).

⁴²Grand River Dam Authority Audit Report, 1949, p. 13.

⁴³Ibid.

TABLE 17

GROSS OUTSTANDING BONDED DEBT OF AGENCIES OF THE STATE OF
OKLAHOMA, ANNUALLY, 1938-1956^a

Fiscal year ^b	Grand River Dam Authority	Planning and Resources Board	Turnpike Authority	Total ^c
1938	\$10,000,000 ^d	\$.....	\$.....	\$ 10,000,000 ^d
1939	10,000,000 ^d	.....	.....	10,000,000 ^d
1940	12,700,000	.....	.....	12,700,000
1941	12,700,000 ^d	.....	.....	12,700,000 ^d
1942	12,700,000 ^d	.....	.....	12,700,000 ^d
1943	12,700,000 ^d	.....	.....	12,700,000 ^d
1944	12,700,000 ^d	.....	.....	12,700,000 ^d
1945	12,700,000 ^d	.....	.....	12,700,000 ^d
1946	14,000,000	.....	.....	14,000,000
1947	13,900,000	.....	.....	13,900,000
1948	13,800,000	.....	.....	13,800,000
1949	23,100,000	850,000	.....	23,950,000
1950	23,100,000	850,000	.....	23,950,000
1951	22,955,000	850,000	31,000,000	54,805,000
1952	22,717,000	850,000	31,000,000	54,567,000
1953	22,467,000	850,000	38,000,000	61,317,000
1954	22,192,000	850,000	38,000,000	61,042,000
1955	21,807,000	7,200,000	106,000,000	135,007,000
1956	21,477,000	7,200,000	106,000,000	134,677,000

^aSources: Grand River Dam Authority Audit Report, 1939-1956; Annual Report of the State Treasurer of the State of Oklahoma, 1950-1956; Moody's Investors Service, Moody's Manual of Investments: Government Securities, 1951-1954 (New

TABLE 17--Continued

York: Moody's Investors Service, 1951-1954); Moody's Investors Service, Moody's Municipal and Government Manual, 1955-1957 (New York: Moody's Investors Service, 1955-1957).

^bEnding June 30 for the Planning and Resources Board and the Turnpike Authority, and December 31 for the Grand River Dam Authority.

^cThese totals include only the outstanding bonds of the Grand River Dam Authority, the Planning and Resources Board, and the Turnpike Authority. They exclude obligations issued by local public trusts classified legally as state agencies.

^dAdditional bonds reserved for issuance and delivery.

obligations that year increased the bonded debt of the agency to \$23,100,000. At the end of 1956, according to Table 17, the outstanding bonds of the Grand River Dam Authority totaled \$21,477,000. The total assets of the agency in 1956 exceeded \$38,000,000, including plant and equipment valued at more than \$35,000,000.⁴⁴

Lake Murray Park Improvement Bonds

The Planning and Resources Board was the second non-educational state agency in Oklahoma to issue revenue bonds for financing its operations.⁴⁵ This Board was established by the legislature in 1937, as a consolidation of the Conservation Commission, the Oklahoma Forest Commission, and the Oklahoma State Planning Board.⁴⁶ The original members of the Planning and Resources Board consisted of six appointees of the Governor and the Chairman of the State Soil

⁴⁴Grand River Dam Authority Audit Report, 1956, p. 2.

⁴⁵Other than the institutions for higher education, the University of Oklahoma Housing Authority was technically the second state agency to issue revenue obligations. Those obligations were classified as institutional debt in this study, however.

⁴⁶Oklahoma, Session Laws (1936-1937), c. 24, art. 17, S.B. 107.

Conservation Committee.⁴⁷ Initially, the agency comprised four divisions: the Division of Forestry, the Division of State Planning, the Division of Water Resources, and the Division of State Parks.⁴⁸ In general, the functions of the Planning and Resources Board are planning and promoting the development of the state's resources, including public recreational areas. Although empowered to acquire and maintain properties and to make contracts, the agency is primarily engaged in service to the state government and is dependent on appropriations for financing most of its activities.⁴⁹

⁴⁷Ibid. The composition and size of the Board have been changed several times since 1937. In 1939 the Governor was made a member and the total membership was reduced to five (Oklahoma, Session Laws [1939], c. 24, art. 17, S.B. 111). The largest Board, consisting of fifteen members, was created in 1943 (Oklahoma, Session Laws [1943], T. 82, c. 4, S.B. 130). In 1947 the legislature reduced the Board to nine members (Oklahoma, Session Laws [1947], T. 74, c. 12, S.B. 46). In 1949 it was again enlarged to eleven members (Oklahoma, Session Laws [1949], T. 74, c. 12, S.B. 168). The Governor was empowered to appoint all eleven members in 1955 (Oklahoma, Session Laws [1955], T. 74, c. 12, S.B. 124).

⁴⁸Oklahoma, Session Laws (1936-1937), c. 24, art. 17, S.B. 107. In 1951 the legislature created a new division, the Division of Tourist and Outdoor Recreation (Oklahoma, Session Laws [1951], H.B. 247). The divisions were reorganized in 1955 as the Divisions of Forestry, Water Resources, Recreation and State Parks, Tourist and Outdoor Recreation, and Planning and Administration (Oklahoma, Session Laws [1955], T. 74, c. 12, S.B. 124).

⁴⁹The Council of State Governments, Public Authorities in the States, p. 6. The Planning and Resources Board

In 1947 the Planning and Resources Board was granted exclusive control of all state parks and other land reserved by the state for recreational purposes.⁵⁰ For the construction of cabins, lodges, restaurants, and related facilities, or for other improvements to its properties, the Board was authorized to issue negotiable bonds, maturing within forty years and bearing a maximum annual rate of interest of 6 per cent. The bonds, whether sold or exchanged for property, were to be secured by the gross revenue of the project financed out of the proceeds. Each park or recreational area was to be financed separately, except in the case of adjoining sites. The Board was forbidden to collect tolls for the use of highways or other entrances to park sites or water ways.⁵¹

In its bond resolutions, the Board was authorized to covenant as to the disposition of revenue, the maintenance

was excluded from this study of public authorities. However, it should be noted in connection with the financing of the Board that revenue and other special funds were expected to exceed appropriated funds in the biennium 1958-1959 (State of Oklahoma, Budget, 1958-1959, pp. 145-47).

⁵⁰Oklahoma, Session Laws (1947), T. 74, c. 12a, S.B. 47. This act declared the Board to be "a governmental agency and instrumentality of the State of Oklahoma" (ibid.).

⁵¹Ibid.

of properties, and the issuance of additional bonds.⁵² No properties were to be mortgaged or otherwise encumbered, however. In the event of a default, bondholders were to have the power of appointing a receiver to take possession of a project and operate it. The Board was empowered to refund maturing or callable obligations or any bonds voluntarily surrendered for refunding.⁵³

The park bonds were legalized as investments for Oklahoma banks, trust companies, and insurance companies. The legislature exempted them from taxation within the state, except for the inheritance levy. All obligations issued by the Board were to be certified by the Attorney General and registered by the State Auditor and thirty days later were to be incontestable in Oklahoma. In its discretion, the Board was authorized to seek judicial approval of any series of bonds. These hearings were to be publicized ten days in advance to permit the filing of protests, and the validation of the state Supreme Court was to be final and conclusive.⁵⁴

In 1949 the Planning and Resources Board asked the

⁵²Ibid. The legislature did not limit the amount of bonds to be issued.

⁵³Ibid.

⁵⁴Ibid.

Court to approve an \$850,000 issue of revenue bonds for improvements at Lake Murray State Park.⁵⁵ These improvements consisted of a central lodge and restaurant, to be operated by a lessee, and additional cabins, to be rented by the Board. Receipts under the lease agreement--a ten year contract--were estimated by the Board to be sufficient to meet the initial debt service requirements. The Board proposed, if necessary, to charge admission fees for entrance into improved areas to supplement the revenue from the new facilities.⁵⁶

No protests were filed against the application, and the Court validated the issue on both statutory and constitutional grounds.⁵⁷ The opinion specifically confirmed the legality of admission fees for entrance to improved areas.⁵⁸

⁵⁵Application of Oklahoma Planning and Resources Board, 201 Okl. 178, 203 P. 2d 415 (1949).

⁵⁶Ibid.

⁵⁷Ibid. The application questioned the applicability of Sections 23, 24, and 25, Article X of the Constitution. The Court cited only one controlling case decided subsequent to the adoption of the budget-balancing amendment: Application of Board of Regents for Oklahoma Agricultural and Mechanical Colleges, 196 Okl. 622, 167 P. 2d 883 (1946). This decision was based on Application of Board of Regents of University of Oklahoma, 195 Okl. 641, 161 P. 2d 447 (1945), which in turn rested on the ruling in State ex rel. Kerr, Governor, v. Grand River Dam Authority, 195 Okl. 8, 154 P. 2d 946 (1945).

⁵⁸Application of Oklahoma Planning and Resources Board, 201 Okl. 178, 203 P. 2d 415 (1949). It should be

An unusual question raised in the proceeding was the applicability of Section 23a, Article X of the Constitution, requiring the diversion of surplus revenue to the state sinking fund.⁵⁹ According to the decision, the purpose of that amendment had been served by the accumulation of a sufficient fund to retire all outstanding state obligations.⁶⁰

As shown in Table 16, the Lake Murray Park Improvement Bonds carried 4 per cent coupons. The obligations were all scheduled to mature on a term basis in 1979. However, the entire issue was refunded in 1954, prior to the redemption of any of the bonds.⁶¹

Turner Turnpike Bonds of 1950

The Oklahoma Turnpike Authority was incorporated by the legislature in 1947 for the purpose of constructing, maintaining, and operating toll road projects.⁶² The members

noted that this ruling was based on an examination of the statute, rather than any constitutional principle.

⁵⁹Ibid. The Board evidently considered the possibility of a future claim on park revenue by the state.

⁶⁰Ibid.

⁶¹Infra, pp. 240-44.

⁶²Oklahoma, Session Laws (1947), T. 69, c. 6, S.B. 225. In the postwar period, the number of state authorities in the United States increased greatly. By function, these

of the Turnpike Authority originally included the Governor and four executive appointees, representing the counties of Creek, Lincoln, Oklahoma, and Tulsa.⁶³ As an instrumentality of the state exercising "an essential governmental function," the agency was authorized to make contracts, to acquire and manage properties, and to sue and be sued in its corporate name. For financing a turnpike between Oklahoma City and Tulsa, the Authority was empowered to issue revenue bonds secured by vehicular tolls. Other projects approved by the

agencies include road, bridge, and tunnel authorities; port, dock, and terminal authorities; state building authorities; water and power authorities; agricultural marketing authorities; and authorities engaged in hospital construction, park management, and transportation (The Council of State Governments, Public Authorities in the States, pp. 28-36). The Council of State Governments discovered forty-two such agencies in operation in 1953 (ibid., Appendix A, pp. 1-24). Most of these authorities have utilized revenue bond financing in their operations (ibid., Appendix B, Table VII). In 1947, in addition to the Turnpike Authority, the Oklahoma legislature incorporated the Southwestern State Fair Association, a state agency empowered to issue \$50,000 of revenue bonds for constructing fairground facilities at Mangum, Oklahoma (Oklahoma, Session Laws [1947], T. 2, c. 2, H.B. 87). None of these obligations was ever issued, however (letter from William H. [Bill] Greer, Mayor, Mangum, Okla., May 19, 1958).

⁶³Oklahoma, Session Laws (1947), T. 69, c. 6, S.B. 225. In 1953 the legislature increased the number of appointive members to six persons, representing each of the congressional districts of the state (Oklahoma, Session Laws [1953], T. 69, c. 6a, H.B. 933). These appointees may be removed by the Governor at any time, with or without cause (ibid.).

legislature and the State Highway Commission were to be financed in the same manner. The statute provided for conversion of the toll roads into free state highways upon retirement of the bonds.⁶⁴

The turnpike bonds were to bear a maximum annual rate of interest of 4 per cent and were to mature within thirty-five years.⁶⁵ They were to be marketed publicly, under a system of competitive bidding. All obligations were to be sold to the bidder offering the lowest rate of interest on the par value of the securities. Only one project was to be financed from each issue, and the legislation provided for additional bonds to supplement inadequate issues. Bond proceeds in excess of estimated turnpike costs were to be deposited in the sinking fund for the issue. The act authorized the issuance of refunding obligations to retire all outstanding portions of an issue and to pay any redemption premiums.⁶⁶

The Authority was forbidden to pledge the credit of

⁶⁴Oklahoma, Session Laws (1947), T. 69, c. 6, S.B. 225.

⁶⁵Ibid. In 1949 the legislature extended the maximum maturity of turnpike bonds to forty years (Oklahoma, Session Laws [1949], T. 69, c. 6, H.B. 197).

⁶⁶Oklahoma, Session Laws (1947), T. 69, c. 6, S.B. 225.

the state or to mortgage any part of a turnpike project. The legislature empowered the agency to set toll rates adequate to operate and maintain the project and to meet the debt service requirements. Separate sinking funds were to be accumulated for each project and applied only to the payment of bonds issued for that turnpike. In its discretion, according to the law, the Authority could apply to the Supreme Court for the validation of any issue.⁶⁷

The legislature exempted the turnpike bonds from all forms of taxation within Oklahoma. The obligations were made legal investments for banks, trust companies, insurance companies, and other financial institutions. Governmental units and agencies of the state, however, were expressly prohibited from purchasing any of the securities.⁶⁸

After operating for a time on funds supplied by private individuals and following an unsuccessful attempt to obtain a loan from the Reconstruction Finance Corporation, the Turnpike Authority in May, 1950, prepared and offered a \$31,000,000 issue for the eighty-eight mile Turner Turnpike between Oklahoma City and Tulsa.⁶⁹ These bonds were approved by the state

⁶⁷Ibid.

⁶⁸Ibid.

⁶⁹The Daily Oklahoman, October 25, 1954, p. 2. The original authority for the Turner Turnpike expired in 1949

Supreme Court over the vigorous protests of the County Commissioners of Lincoln County, the Board of Education of Chandler, and a large group of state taxpayers.⁷⁰

In a long and detailed opinion, the majority of the Court settled nineteen specific points of law pertaining to the issue. Among the more important rulings were those regarding state debt controls. Citing most of the previous decisions invoking the special fund doctrine, Justice Welch summarily denied the applicability of the constitutional debt limitation. Obligations secured only by toll road earnings were clearly exempt from the debt limitation, according to the opinion. Another related finding was that the twenty-five year maximum maturity for state obligations had no application to revenue bonds. Justice Welch further asserted that the turnpike bonds did not require certification by the Attorney General and the State Auditor.⁷¹

The protestants also challenged the statutory exemption of toll road obligations from state taxes. In this

but was extended to 1951 by the Twenty-Second Legislature (Oklahoma, Session Laws [1949], T. 69, c. 6, H.B. 197).

⁷⁰Application of Oklahoma Turnpike Authority, 203 Okl. 335, 221 P. 2d 795 (1950). From the date of filing of the application, this proceeding lasted one month. The written and oral testimony was evidently voluminous.

⁷¹Ibid.

connection, the majority reasoned that the turnpike would eventually belong to the state and that the bonds were thus being issued in furtherance of a governmental function. Justice Welch concluded that the legislature was empowered to exempt such obligations from taxation within the state.⁷² The contention that the Turnpike Authority was transacting business for the benefit of private investors was held to present "a novel and narrow view of the purpose and operation of the authority."⁷³

Justice Gibson dissented from the majority decision on the ground that the turnpike would not extend into the city limits of the termini specified in the legislative authorization. In his opinion, the bond issue was invalidated by the failure of the Authority to provide access to the terminal cities.⁷⁴ The foes of the turnpike project appealed the majority decision to the United States Supreme

⁷²Ibid. The majority cited the case, In re Assessment of First National Bank of Chickasha, 58 Okl. 508, 160 P. 469 (1916), in which the Court had confirmed the tax-exempt status of the Public Building Bonds of 1910-1911.

⁷³Ibid. This contention was a protest against the grant of powers of eminent domain to the Authority.

⁷⁴Ibid.

Court but were denied a hearing of their petition.⁷⁵

As shown in Table 16, the Turner Turnpike Bonds bore coupon rates ranging from 3 to 4 per cent. The issue was sold at par to an investment banking syndicate at an average rate of interest of 3.43 per cent.⁷⁶ These obligations were scheduled to mature serially between 1958 and 1990, as indicated in Table 16. They are callable on thirty days' notice at premiums ranging down from 5 per cent to 1.5 per cent.⁷⁷

Turner Turnpike Bonds of 1952

In 1952 the Oklahoma Turnpike Authority prepared a supplementary bond issue to finance the completion of the Turner Turnpike.⁷⁸ As indicated in Table 18, the re-estimated

⁷⁵The Daily Oklahoman, October 25, 1954, p. 2.

⁷⁶The Daily Oklahoman, October 26, 1954, p. 12. The Authority received three bids on the bonds. The successful bid was submitted by a syndicate consisting of Shields and Company, New York; Allen and Company, New York; M. E. Allison and Company, San Antonio; and Emerson and Company, San Antonio (*ibid.*). The obligations were sold to investors at 104.3 (The Daily Oklahoman, October 27, 1954, p. 8).

⁷⁷Oklahoma Turnpike Authority, Official Statement of Oklahoma Turnpike Authority Relating to \$31,000,000 Turnpike Revenue Bonds (Oklahoma City: Oklahoma Turnpike Authority, 1950), p. 9.

⁷⁸Oklahoma Turnpike Authority, Official Statement of Oklahoma Turnpike Authority Relating to Its Additional Turnpike Revenue Bonds (Oklahoma City: Oklahoma Turnpike Authority, 1952).

TABLE 18

COST OF TURNER TURNPIKE, BY ITEM OF EXPENSE,
AS RE-ESTIMATED, 1952^a

Item of expense	Amount
Turnpike construction	\$30,296,850.72
Oklahoma City and Tulsa connections ..	71,450.00
Right-of-way and property damage	1,262,597.57
Preliminary and legal expenses	528,646.80
Engineering	2,391,165.02
Maintenance and police	120,000.00
Interest during construction	3,477,437.50
Contingencies	818,328.86 ^b
Total	\$38,966,476.47
Less proceeds of 1950 issue, accrued interest, and interest earned	\$31,966,476.47
Needed for completion of project ...	\$ 7,000,000.00

^aSource: Oklahoma Turnpike Authority, Official Statement of Oklahoma Turnpike Authority Relating to Its Additional Turnpike Revenue Bonds (Oklahoma City: Oklahoma Turnpike Authority, 1952), p. 6.

^bIncluded \$250,000 for financing costs, the bond discount, and other expenses in connection with the Turner Turnpike Bonds of 1952.

cost of the project exceeded the original estimate of \$31,000,000 by almost \$8,000,000. The Authority proposed to float an additional \$7,000,000 of revenue obligations, which, according to Table 18, were necessary to augment the original bond proceeds, accrued interest, and the interest earned on the agency's investments. The only bid received on the bonds was a discount bid of \$6,755,000--at an average effective rate of interest of 3.84 per cent--submitted by the same syndicate which purchased the first Turner Turnpike issue.⁷⁹ The Authority accepted the bid and subsequently asked the Oklahoma Supreme Court to validate the supplementary obligations.⁸⁰

In this proceeding, two private citizens challenged the application, contending that the Authority was not empowered to sell bonds below their par value. As the protestants pointed out, the statutory authorization provided that "all bonds shall be sold to the bidder who will bid therefor par and accrued interest, and who shall stipulate in his bid the lowest rate of interest which such bonds shall bear."⁸¹

⁷⁹The Daily Oklahoman, June 3, 1952, p. 1.

⁸⁰Application of Oklahoma Turnpike Authority, 206 Okl. 617, 246 P. 2d 327 (1952). It should be noted that these bonds were dated 1950 and technically constituted a portion of the original issue.

⁸¹Oklahoma, Session Laws (1949), T. 69, c. 6, H.B. 197.

It was further claimed that Oklahoma legislative policy had always prohibited discount sales of public bonds.⁸²

According to the decision, however, the turnpike legislation authorized acceptance of a discount bid if it was the best bid received. The Court cited the statutory provision prohibiting the payment of effective rates of interest in excess of 4 per cent per annum. "We think," the majority declared, "by that section of the statute, considered as a whole, and noting the entire absence of any specific requirement that the bonds be sold for not less than par and accrued interest, that the legislative intention is clearly expressed as being in accord with our conclusion here."⁸³ The opinion also noted that neither the Grand River Dam Authority nor the Planning and Resources Board was forbidden to sell revenue bonds at a discount.⁸⁴

As indicated in Table 16, the Turner Turnpike Bonds of 1952 carried a coupon rate of 3.75 per cent and were to

⁸²Application of Oklahoma Turnpike Authority, 206 Okl. 617, 246 P. 2d 327 (1952).

⁸³Ibid. The Court ruled that effective rates of interest were to be calculated on the basis of scheduled bond maturities, disregarding provisions for redemption prior to maturity.

⁸⁴Ibid. College revenue bonds, however, may not be sold at a discount (supra, Chapter IV, p. 166, note 54).

mature on a term basis in 1990. According to Table 19, however, the Turnpike Authority estimated that net revenue would be sufficient to retire both of the Turner Turnpike issues by 1983. Table 19 also reveals an estimated total interest requirement of about \$29,000,000 on the Turner Turnpike Bonds, or approximately three-fourths of the total principal amount. Actual revenue from the project exceeded estimated revenue during the first five years of operation.⁸⁵

Creation of Debt by Public Trusts

Under legislation enacted in 1951 and amended in 1953, state and local debt may be incurred in Oklahoma by the trustees of express trusts for the furtherance of public functions.⁸⁶ The beneficiaries of these trusts may be the state, agencies of the state, counties, municipalities, or other political subdivisions. The trustees legally constitute "an agency of the State," regardless of the governmental status of the beneficiary. Such trusts are not to be terminated prior to the retirement of all contractual obligations which might become liabilities against the beneficiary.⁸⁷

⁸⁵Moody's Investors Service, Moody's Municipal and Government Manual, 1958, p. 1382.

⁸⁶Oklahoma, Session Laws (1951), T. 60, c. 4, S.B. 24; Oklahoma, Session Laws (1953), T. 60, c. 4, S.B. 351.

⁸⁷Ibid.

TABLE 19

ESTIMATED NET REVENUE AND BOND SERVICE REQUIREMENTS
OF TURNER TURNPIKE, 1953-1990^a

Year ^b	Estimated net revenue ^c	Principal payments and redemptions ^d	Interest ^e
1953	\$1,510,000.00	\$.....	\$1,330,500.00
1954	1,595,000.00	.....	1,330,500.00
1955	1,680,000.00	.....	1,330,500.00
1956	1,765,000.00	.....	1,330,500.00
1957	1,850,000.00	.....	1,330,500.00
1958	1,910,000.00	180,000.00	1,330,500.00
1959	1,965,000.00	456,000.00	1,323,300.00
1960	2,015,000.00	581,000.00	1,306,340.00
1961	2,060,000.00	749,000.00	1,284,792.50
1962	2,100,000.00	819,000.00	1,257,260.00
1963	2,140,000.00	881,000.00	1,228,762.50
1964	2,175,000.00	963,000.00	1,198,100.00
1965	2,210,000.00	1,047,000.00	1,164,590.00
1966	2,240,000.00	1,108,000.00	1,128,190.00
1967	2,270,000.00	1,182,000.00	1,089,667.50
1968	2,295,000.00	1,253,000.00	1,048,522.50
1969	2,320,000.00	1,337,000.00	1,004,950.00
1970	2,340,000.00	1,408,000.00	958,410.00
1971	2,360,000.00	1,472,000.00	909,442.50
1972	2,375,000.00	1,533,000.00	858,202.50
1973	2,390,000.00	1,595,000.00	804,880.00
1974	2,405,000.00	1,692,000.00	749,355.00
1975	2,415,000.00	1,775,000.00	690,505.00
1976	2,425,000.00	1,810,000.00	628,705.00
1977	2,435,000.00	1,881,000.00	565,565.00
1978	2,445,000.00	1,963,000.00	499,730.00
1979	2,450,000.00	2,051,000.00	431,025.00

TABLE 19--Continued

Year ^b	Estimated net revenue ^c	Principal payments and redemptions ^d	Interest ^e
1980	\$2,455,000.00	\$2,133,000.00	\$ 359,240.00
1981	2,460,000.00	2,214,000.00	284,585.00
1982	2,465,000.00	2,290,000.00	207,095.00
1983	2,465,000.00	3,627,000.00	126,945.00
1984	2,465,000.00	.....	.....
1985	2,465,000.00	.....	.....
1986	2,465,000.00	.....	.....
1987	2,460,000.00	.....	.....
1988	2,455,000.00	.....	.....
1989	2,450,000.00	.....	.....
1990 ^f	1,450,000.00	.....	.....
Total	\$84,195,000.00	\$38,000,000.00	\$29,091,160.00 ^g

^aSource: Oklahoma Turnpike Authority, Official Statement of Oklahoma Turnpike Authority Relating to Its Additional Turnpike Revenue Bonds (Oklahoma City: Oklahoma Turnpike Authority, 1952), p. 16.

^bEnding August 1.

^cEstimated gross revenue minus estimated expenses.

^dExcludes redemption premiums.

^eExcludes interest during construction.

^fFirst seven months.

^gTotal reported in source incorrect.

The first bonds issued under this legislation were apparently the \$914,000 of water system bonds sold by the Oklahoma City Suburban Waterworks Trustee in 1952.⁸⁸ A second trust, the Oklahoma County Utility Services Authority, was validated by the state Supreme Court in 1955 and was authorized to issue \$166,000 of "mortgage revenue bonds."⁸⁹ The Court affirmed the constitutionality of a third agency, the Oklahoma City Airport Trust, in 1956.⁹⁰ The Airport Trust marketed a total of \$10,665,000 of obligations for the improvement and operation of three airports.⁹¹

In the cases cited above, the Oklahoma Supreme Court held that indebtedness incurred by trustees--and payable solely from a trust estate and its income--is exempt from the constitutional restrictions on creation of debt by the

⁸⁸Moody's Investors Service, Moody's Municipal and Government Manual, 1957, p. 1331. Small municipal bond issues, if listed at all, are not described in any detail in the Manual. And trustees of public trusts are not required to register bond issues with the Attorney General. Thus, a complete list of bonds issued through the public trust device would be difficult to compile.

⁸⁹Board of County Commissioners v. Warram, 285 P. 2d 1034 (1955).

⁹⁰Morris v. City of Oklahoma City, 299 P. 2d 131 (1956).

⁹¹Moody's Investors Service, Moody's Municipal and Government Manual, 1957, p. 1394.

state and local government units. According to these decisions, trustees are empowered to mortgage properties held in trust, unless encumbrances are prohibited by the trust instrument. Lease agreements between trustees and beneficiaries are also valid under the public trust act.⁹²

Although the trustees of public trusts are legally agencies of the state, the bond issues described above were considered in this study to represent a form of local debt. Since the beneficiaries were political subdivisions, none of the obligations was included in any tabulation of state indebtedness. No instance was discovered in which bonds were issued by trustees in behalf of the state or a state agency. Presumably, however, the Supreme Court would approve such an arrangement. The power of trustees to mortgage trust properties constitutes a possible advantage of this method of financing over conventional revenue bond issuance.

Failure of Veterans Loan Program

In 1953 the legislature incorporated the Oklahoma Veterans Loan Authority, a state agency empowered to make farm and home loans to ex-servicemen who qualified as

⁹² Board of County Commissioners v. Warram, 285 P. 2d 1034 (1955); Morris v. City of Oklahoma City, 299 P. 2d 131 (1956).

residents of Oklahoma.⁹³ The three members of the War Veterans Commission were appointed to serve coinciding terms on the Loan Authority. Under the terms of the act, farm loans were to be limited to \$35,000, for a maximum term of thirty-five years. Home loans were not to exceed \$10,000, for a maximum term of twenty-five years. The agency was authorized to purchase, lease, and sell property in its own name.⁹⁴

For financing the loan program, the legislature empowered the Authority to issue as much as \$10,000,000 of revenue bonds annually. These bonds were to bear a maximum annual effective rate of interest of 3.5 per cent. Obligations secured by farm loans were to mature within thirty-five years, and those payable from home loans were limited to a maturity of twenty-five years. All issues were to be marketed publicly, under a system of competitive bidding.⁹⁵

The bonds were to be retired out of the revenue of the Authority. The legislature established a sinking fund, to consist of all payments of principal on farm and home

⁹³Oklahoma, Session Laws (1953), T. 72, S.B. 193.

⁹⁴Ibid.

⁹⁵Ibid. The bonds were to be sold to the bidder offering the lowest rate of interest on the par value of the securities.

loans, 75 per cent of the interest on the loans, and the earnings of the agency on property and investments. Transfers from the loan fund to the sinking fund were also authorized. The act prohibited the pledging of the faith and credit or the taxing power of the state.⁹⁶

These bonds were legalized as investments for banks and other financial institutions, political subdivisions, and agencies of the state. They were declared to be nontaxable within the state. The Loan Authority was authorized, in its discretion, to request a ruling from the state Supreme Court on the validity of any of its obligations.⁹⁷

In February, 1954, the Veterans Loan Authority advertised for bids on an initial issue of \$5,000,000, to be secured by first liens on farms and homes and by government-insured mortgages. These obligations were scheduled to mature between 1956 and 1975.⁹⁸ However, the Authority received no bids on the issue. Investors were reportedly unwilling to purchase bonds of this type not backed by the

⁹⁶ Ibid.

⁹⁷ Ibid.

⁹⁸ The Commercial and Financial Chronicle, February 22, 1954, p. 54.

full faith and credit of the state.⁹⁹

State Park Improvement Bonds

The Oklahoma Planning and Resources Board was granted general authority in 1953 to issue revenue bonds for constructing and improving state park facilities.¹⁰⁰ No aggregate debt limit was set, but the act specified a maximum rate of interest of 6 per cent and limited the maturity of the obligations to forty years. The Board was empowered to finance its projects jointly out of the proceeds of a single debt issue and to pledge the gross revenue from all its properties for the payment of the bonds.¹⁰¹

In 1954 the Planning and Resources Board asked the Oklahoma Supreme Court to approve a \$7,200,000 issue for

⁹⁹The Daily Oklahoman, March 2, 1954, p. 22. Two years later, the voters of the state rejected a constitutional amendment authorizing the issuance of general obligations to finance a veterans' loan program (supra, Chapter III, pp. 132-34).

¹⁰⁰Oklahoma, Session Laws (1953), T. 74, c. 12a, S.B. 406. This legislation prescribed substantially the same procedure for the issuance of bonds as the act of 1947 authorizing the Lake Murray Park Improvement Bonds.

¹⁰¹Ibid. The legislature vested title to these properties in the state of Oklahoma. It should be noted that park revenue includes lodge rentals, license fees, and fines levied in connection with the operation of the state park system (Oklahoma, Statutes [1951], T. 74, sec. 351).

refunding the Lake Murray Park Improvement Bonds and for making extensive improvements throughout the state park system.¹⁰² These obligations were validated by a bare majority of five to four, and one justice concurred under the rule of stare decisis. The majority conferred for nearly a month before agreeing on an opinion.¹⁰³

The majority exempted the issue from the state debt limitation under the decisional rule of the hearing on the Lake Murray Park Improvement Bonds.¹⁰⁴ And even though the latter obligations were not callable until 1955, the Board was authorized to refund them out of the proceeds of the new issue. According to the opinion, the refunding operation was necessary to free the Lake Murray Park revenue from the existing lien. The majority also approved a provision in the bond resolution calling for retirement of the issue in seventeen years, instead of the scheduled thirty years. The authority of the Planning and Resources Board to charge

¹⁰²Application of Oklahoma Planning and Resources Board, 274 P. 2d 61 (1954). These bonds constituted a portion of a proposed aggregate issue of \$25,000,000. They were issued principally to finance the construction of lodges at five state parks (ibid.).

¹⁰³The Daily Oklahoman, August 15, 1954, p. 1B.

¹⁰⁴Application of Oklahoma Planning and Resources Board, 201 Okl. 178, 203 P. 2d 415 (1949).

admission fees to improved park areas, if necessary, was reaffirmed.¹⁰⁵

Justice Williams asserted in his dissenting opinion that the Planning and Resources Board was not empowered to encumber all revenue accruing from the operation of the state park system. Moreover, he argued, the issuance of park bonds under any circumstances would constitute a violation of the budget-balancing amendment. According to Justice Williams, the Court had erred in most of the revenue bond cases arising after 1941 by following the decision of State ex rel. Kerr, Governor, v. Grand River Dam Authority.¹⁰⁶ He contended that the obligations of the Grand River Dam Authority (and the Oklahoma Turnpike Authority) were exempted from the state debt limitation because these agencies were self-supporting. Agencies operating wholly or partially on state revenue, he concluded, were prohibited by Section 23, Article X of the Constitution, from incurring any kind of indebtedness. In

¹⁰⁵Application of Oklahoma Planning and Resources Board, 274 P. 2d 61 (1954). The majority opinion was written by Vice Chief Justice Johnson. Justice O'Neal concurred by reason of stare decisis.

¹⁰⁶195 Okl. 8, 154 P. 2d 946 (1945). This case was the first major suit involving a proposed revenue bond issue subsequent to the adoption of the budget-balancing amendment.

his opinion, the Court had first correctly applied the budget-balancing amendment in denying the application of the Educational Television Authority to issue bonds.¹⁰⁷

Justice Williams also objected to a provision for placing the state park system in receivership in the event of a default. And he questioned the power of the Planning and Resources Board to impose admission fees for entrance to improved park areas. Refunding of the Lake Murray Park bonds prior to their call date, he declared, was prohibited by the statutory authorization and would double the interest requirement on the obligations until they were retired. In separate dissenting opinions, Justices Welch and Corn condemned the pledging of revenue not derived exclusively from facilities constructed with the bond proceeds. Justice Blackbird joined in this view.¹⁰⁸

¹⁰⁷Application of Oklahoma Educational Television Authority, 272 P. 2d 1027 (1954). Not until this decision, according to Justice Williams, "was any serious consideration given in any case to the effect of the 1941 constitutional amendment. There for the first time it was pointed out that the 1941 constitutional amendment applied to all debts and not to just those which might look to the taxing power for payment, thoroughly demonstrating the incorrectness of prior holdings to the contrary" (Application of Oklahoma Planning and Resources Board, 274 P. 2d 61 [1954]).

¹⁰⁸Application of Oklahoma Planning and Resources Board, 274 P. 2d 61 (1954).

As shown in Table 16, the \$7,200,000 of State Park Improvement Bonds bore a coupon rate of 4.5 per cent. As issued, according to Table 16, the obligations were scheduled to mature on a term basis in 1984; but, as explained above, the Planning and Resources Board agreed in the indenture to retire the bonds in seventeen years. Toward the end of 1956, the Board revealed the possibility that park revenue might be inadequate to meet the accelerated debt service requirements during the initial months of maturity.¹⁰⁹

Northeastern Turnpike Bonds

Following one of the most bitter battles of the session of 1953, the Twenty-Fourth Legislature authorized the construction of three additional state turnpikes.¹¹⁰ The legislature first approved the projects in a controversial House bill imposing numerous restrictions on the Turnpike

¹⁰⁹The Daily Oklahoman, December 9, 1956, p. 1D. The Board technically defaulted on the first principal payment in 1957 and was forced to invoke the ninety-day grace period provided in the trust agreement (The Daily Oklahoman, August 4, 1957, p. 1). Also see Chapter VI, p. 320, below.

¹¹⁰The Daily Oklahoman, October 24, 1954, p. 2A. In reviewing the history of turnpike legislation, the paper credited Governor Roy J. Turner and Governor Johnston Murray for successfully opposing legislators "extremely hostile" to toll roads (ibid.).

Authority.¹¹¹ Later this act was partially amended by a Senate bill which moderated these provisions.¹¹² As amended, the legislation empowered the Oklahoma Turnpike Authority to build toll roads from Oklahoma City to a turnpike connection with Wichita Falls, Texas; from Tulsa to a connection with Joplin, Missouri; and from Oklahoma City to a connection with Wichita, Kansas.¹¹³

The Turnpike Authority was authorized to float separate bond issues for each project. The obligations were to bear a maximum annual effective rate of interest of 5 per cent, and were to mature within forty years. They were to be marketed either publicly or privately, at the best price obtainable. The bonds were legalized as investments for banks and other financial institutions and were exempted from all forms of taxation within the state.¹¹⁴

¹¹¹Oklahoma, Session Laws (1953), T. 69, c. 6a, H.B. 933.

¹¹²Oklahoma, Session Laws (1953), T. 69, c. 6b, S.B. 454. The amendments removed some of the restrictions on routing of the turnpikes, liberalized the power of the Turnpike Authority to borrow State Highway Department funds for preliminary engineering expenses, and modified the provisions for certain condemnation proceedings.

¹¹³Ibid.

¹¹⁴Oklahoma, Session Laws (1953), T. 69, c. 6a, H.B. 933.

The legislature provided that the proceeds of each issue should be used only for the turnpike specified in the resolution authorizing the bonds. The Authority was directed to maintain a separate sinking fund for each issue, to consist of tolls and other revenue from the project. Surplus bond proceeds were also to be deposited in the sinking fund, if the net amount of an issue exceeded the cost of the road. As soon as each project was freed of debt, the turnpike was to be integrated into the Oklahoma highway system. The act ordered the state Supreme Court to give priority to toll road bond applications.¹¹⁵

Through a referendum petition, a group of Oklahoma citizens attempted to block the extension of the state turnpike system.¹¹⁶ However, both of the toll road bills enacted by the Twenty-Fourth Legislature were ratified by the electorate in a special election on January 26, 1954. The Senate bill received 174,236 affirmative votes and 133,650 negative votes.¹¹⁷ The House bill, as amended, was approved by a vote

¹¹⁵Ibid.

¹¹⁶The Daily Oklahoman, September 3, 1953, p. 1. This effort involved a series of legal maneuvers extending over a period of several months. See The Daily Oklahoman, June 16, 1953, p. 8; August 24, 1953, p. 1; December 30, 1953, p. 1.

¹¹⁷State Question No. 359, Referendum Petition No. 105; Directory of the State of Oklahoma, 1957, p. 195.

of 171,151 to 132,121.¹¹⁸

In December of 1954, the Turnpike Authority presented three bond applications to the Oklahoma Supreme Court. The proposed issues included \$83,000,000 for the Southwestern Turnpike, or Wichita Falls, Texas, route; \$68,000,000 for the Northeastern Turnpike, or Joplin, Missouri, route; and \$63,000,000 for the Northern Turnpike, or Wichita, Kansas, route. The Court consolidated the cases and validated the bonds in one proceeding.¹¹⁹

Although no protests were filed, the three bond applications raised several legal questions. In one important ruling, the Court approved the issuance of toll road obligations under open-end indentures. The Authority proposed to extend and improve the Northern and Southwestern Turnpikes out of the proceeds of subsequent bond issues, if earnings justified the additional expenditures. According to the opinion, the agency had "ample legal power and authority to issue bonds for acquiring the entire right of way and for constructing thereon at this time a major portion of the

¹¹⁸State Question No. 360, Referendum Petition No. 106; Directory of the State of Oklahoma, 1957, p. 195.

¹¹⁹Applications of Oklahoma Turnpike Authority, 277 P. 2d 176 (1954).

entire turnpike, the construction of a remaining segment or portion of the turnpike at a later date being dependent on demonstration of earning possibilities."¹²⁰ The decision also empowered the Turnpike Authority to enter into an agreement with the state of Texas for sharing half the cost of a free bridge across the Red River. The Court authorized the allocation of bond proceeds from the Southwestern Turnpike issue for this purpose.¹²¹

The Turnpike Authority was unsuccessful in the attempt to float \$214,000,000 of toll road bonds at one time. No bids were received on either the Northern Turnpike issue or the Southwestern Turnpike issue. According to the underwriters, the bond market was glutted with turnpike obligations of other states. The Northeastern Turnpike Bonds were sold at a discount of 3.34 per cent and bore an average rate of interest of 3.66 per cent.¹²² Coupon rates on these obligations, as indicated in Table 16, ranged between 3.25 per cent and 3.75

¹²⁰Ibid.

¹²¹Ibid. The applicability of the state debt limitation was not considered in any part of this opinion.

¹²²The Daily Oklahoman, December 9, 1954, p. 1. In this flotation, the underwriting account was managed by a group of eighteen investment banking firms, headed by the First Boston Corporation (The Daily Oklahoman, October 26, 1954, p. 12).

per cent. The issue is scheduled to mature between 1962 and 1993. Under the terms of the indenture, the bonds are callable after December 1, 1959, at premiums ranging down from 4.5 per cent to .5 per cent.¹²³

As shown in Table 20, the estimated cost of constructing the Northeastern Turnpike totaled \$68,500,000, although the Authority expected to earn \$500,000 from Construction Fund investments. Interest cost during construction and approximately one year thereafter was calculated to exceed \$8,500,000. According to Table 21, the net revenue of the project over the scheduled period of maturity was estimated at approximately \$250,000,000, compared with total principal payments of \$68,000,000 and additional interest requirements of almost \$63,000,000. However, as noted in Table 21, the Authority planned to retire all of the obligations by 1974. Estimated redemptions prior to maturity were not detailed by the Authority, but interest payments and premiums would evidently total about \$41,000,000 if the issue can be retired

¹²³Oklahoma Turnpike Authority, Official Statement of Oklahoma Turnpike Authority Relating to \$68,000,000 Turnpike Revenue Bonds--Northeastern Turnpike (Oklahoma City: Oklahoma Turnpike Authority, 1954), p. 9. The bonds are callable at par after December 1, 1987.

TABLE 20

ESTIMATED COST OF NORTHEASTERN TURNPIKE,
BY ITEM OF EXPENSE^a

Item of expense	Amount
Roadway construction	\$42,691,400
Toll booths	450,000
Maintenance equipment and buildings	325,000
Administration building	450,000
Signs and communications	100,000
Right-of-way acquisition	1,662,313
Preliminary expenses	128,500
Administrative, engineering, and legal expenses	4,369,640
Interest on bonds to June 1, 1958 ^b	8,510,727
Bond discount and financing costs	2,500,000
Contingencies	6,523,147
Additional reserve for contingencies	789,273
Total	\$68,500,000
Less estimated minimum interest accruing from investment of Construction Fund	\$ 500,000
Principal amount of bonds	\$68,000,000

^aSource: Oklahoma Turnpike Authority, Official Statement of Oklahoma Turnpike Authority Relating to \$68,000,000 Turnpike Revenue Bonds--Northeastern Turnpike (Oklahoma City: Oklahoma Turnpike Authority, 1954), pp. 3-4.

^bInterest during construction and approximately one year thereafter.

TABLE 21

ESTIMATED NET REVENUE AND BOND SERVICE REQUIREMENTS
OF NORTHEASTERN TURNPIKE, 1958-1993^a

Year ^b	Estimated net revenue ^c	Serial maturity	Interest ^d
1958	\$4,051,000.00	\$.....	\$2,490,944.50
1959	4,431,000.00	.....	2,490,944.50
1960	4,841,000.00	.....	2,490,944.50
1961	5,154,000.00	.....	2,490,944.50
1962	5,569,000.00	300,000.00	2,490,944.50
1963	5,950,000.00	400,000.00	2,481,194.50
1964	6,285,000.00	500,000.00	2,468,194.50
1965	6,638,000.00	600,000.00	2,451,944.50
1966	7,009,000.00	700,000.00	2,432,444.50
1967	7,398,000.00	1,322,000.00	2,407,944.50
1968	7,398,000.00	1,369,000.00	2,361,674.50
1969	7,398,000.00	1,417,000.00	2,313,759.50
1970	7,398,000.00	1,466,000.00	2,264,164.50
1971	7,398,000.00	1,518,000.00	2,211,388.50
1972	7,398,000.00	1,571,000.00	2,156,740.50
1973	7,398,000.00	1,626,000.00	2,100,184.50
1974 ^e	7,398,000.00	1,683,000.00	2,041,648.50
1975	7,398,000.00	1,742,000.00	1,981,060.50
1976	7,398,000.00	1,802,000.00	1,918,348.50
1977	7,398,000.00	2,130,000.00	1,853,476.50
1978	7,398,000.00	2,204,000.00	1,776,796.50
1979	7,398,000.00	2,281,000.00	1,697,452.50
1980	7,398,000.00	2,361,000.00	1,615,336.50
1981	7,398,000.00	2,444,000.00	1,530,340.50
1982	7,398,000.00	2,529,000.00	1,442,356.50
1983	7,398,000.00	2,618,000.00	1,351,312.50
1984	7,398,000.00	2,709,000.00	1,253,137.50

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1960	4,841,000.00	2,490,944.50
1961	5,154,000.00	2,490,944.50
1962	5,569,000.00	300,000.00	2,490,944.50
1963	5,950,000.00	400,000.00	2,481,194.50
1964	6,285,000.00	500,000.00	2,468,194.50
1965	6,638,000.00	600,000.00	2,451,944.50
1966	7,009,000.00	700,000.00	2,432,444.50
1967	7,398,000.00	1,322,000.00	2,407,944.50
1968	7,398,000.00	1,369,000.00	2,361,674.50
1969	7,398,000.00	1,417,000.00	2,313,759.50
1970	7,398,000.00	1,466,000.00	2,264,164.50
1971	7,398,000.00	1,518,000.00	2,211,388.50
1972	7,398,000.00	1,571,000.00	2,156,740.50
1973	7,398,000.00	1,626,000.00	2,100,184.50
1974 ^e	7,398,000.00	1,683,000.00	2,041,648.50
1975	7,398,000.00	1,742,000.00	1,981,060.50
1976	7,398,000.00	1,802,000.00	1,918,348.50
1977	7,398,000.00	2,130,000.00	1,853,476.50
1978	7,398,000.00	2,204,000.00	1,776,796.50
1979	7,398,000.00	2,281,000.00	1,697,452.50
1980	7,398,000.00	2,361,000.00	1,615,336.50
1981	7,398,000.00	2,444,000.00	1,530,340.50
1982	7,398,000.00	2,529,000.00	1,442,356.50
1983	7,398,000.00	2,618,000.00	1,351,312.50
1984	7,398,000.00	2,709,000.00	1,253,137.50

TABLE 21--Continued

Year ^b	Estimated net revenue ^c	Serial maturity	Interest ^d
1985	\$7,398,000.00	\$2,804,000.00	\$1,151,550.00
1986	7,398,000.00	2,902,000.00	1,046,400.00
1987	7,398,000.00	3,213,000.00	937,575.00
1988	7,398,000.00	3,325,000.00	817,087.50
1989	7,398,000.00	3,442,000.00	692,400.00
1990	7,398,000.00	3,562,000.00	563,325.00
1991	7,398,000.00	3,687,000.00	429,750.00
1992	7,398,000.00	3,816,000.00	291,487.50
1993	7,398,000.00	3,957,000.00	148,387.50
Total	\$249,674,000.00	\$68,000,000.00	\$62,643,586.00

^aSource: Oklahoma Turnpike Authority, Official Statement of Oklahoma Turnpike Authority Relating to \$68,000,000 Turnpike Revenue Bonds--Northeastern Turnpike (Oklahoma City: Oklahoma Turnpike Authority, 1954), p. 7.

^bEnding December 1.

^cEstimated gross revenue minus estimated expenses.

^dExcludes interest during construction and approximately six months thereafter.

^eEstimated date of final retirement of bonds.

by 1974.¹²⁴

The Northeastern Turnpike Bonds constituted the largest single bond issue in the history of Oklahoma finance. The data in Table 17 reveal that the issuance of these obligations and the State Park Improvement Bonds more than doubled the outstanding debt of state agencies. The total amount of such debt rose from approximately \$61,000,000 in 1954 to \$135,000,000 in 1955.

Turnpike Legislation of 1955

In 1955 the legislature authorized the construction of a fifth state turnpike to connect either the Turner Turnpike or the Northeastern Turnpike,¹²⁵ or both, with a proposed Texas toll road terminating at the Oklahoma border near Gainesville, Texas.¹²⁶ At the same time, the legislature

¹²⁴This figure was derived by subtracting the principal amount of the issue from the total of estimated revenue through 1974. It should be noted that the Northeastern Turnpike was completed in 1957 at an actual cost of \$10,000,000 less than the original estimate (Moody's Investors Service, Moody's Municipal and Government Manual, 1958, p. 1382). The surplus should expedite the amortization of the issue.

¹²⁵The Northeastern Turnpike was re-named the Will Rogers Turnpike in 1955 (Oklahoma, Session Laws [1955], House Joint Resolution No. 523).

¹²⁶Oklahoma, Session Laws (1955), T. 69, c. 6, H.B. 933.

attempted to insure the financing of the Northern and Southwestern Turnpikes. The Turnpike Authority was ordered to require a \$1,000,000 performance bond from the underwriters if the new project were initiated first. In contrast to earlier turnpike legislation, the act of 1955 authorized a form of joint financing for the remaining three toll road projects.¹²⁷

The legislature also empowered the Turnpike Authority to operate paid-out turnpikes as toll highways until all obligations of the agency are retired. The revised law provided that earnings from paid-out projects must first be applied to correct defaults or to increase inadequate bond reserve funds. Otherwise, the revenue is to be prorated among the sinking funds for outstanding turnpike issues.¹²⁸ It should be noted that state officials expect partial

¹²⁷Ibid. The statute enabled the Authority to pledge the combined revenue of the projects for the payment of the bonds.

¹²⁸Ibid. In order to guarantee the payment of interest coupons on any bonds issued for the Southwestern Turnpike, the legislature in 1957 authorized the creation of a trust fund, consisting of tax collections for state highway construction and maintenance. The statute provides for the accumulation of \$504,000 a year for this purpose, following the completion of the project. The act expires in 1959 unless the bonds have been sold by that time (Oklahoma, Session Laws [1957], Senate Joint Resolution No. 37).

reimbursement from the federal government for the construction of the Turner and Northeastern Turnpikes. These two projects have been approved for incorporation into the national interstate highway system authorized by the Highway Act of 1956.¹²⁹

Financial Summary

The eight bond issues of Oklahoma governmental agencies enumerated in Table 16 exceeded \$165,000,000. Between 1938 and 1956, as noted in Table 16, the Grand River Dam Authority, the Planning and Resources Board, and the Turnpike Authority floated \$136,500,000 of original long-term self-liquidating obligations and \$28,650,000 of refunding bonds. The Oklahoma Turnpike Authority accounted for over 75 per cent of the total original debt issued during the period by these agencies. As shown in Table 17, the outstanding bonds of state agencies totaled almost \$135,000,000 at the end of fiscal 1956.

¹²⁹The Daily Oklahoman, October 20, 1956, p. 1.

CHAPTER VI

AGGREGATE STATE DEBT AND DEBT POLICY

"The size of a state debt," as aptly expressed in a recent study, "is determined by the peculiar conditions, policies, and legal restrictions which prevail in the state."¹ The most important of these factors controlling the growth of general and self-liquidating state indebtedness in Oklahoma have been described in the preceding chapters. The following analysis presents data on aggregate state debt financing over the period of statehood and an evaluation of over-all state debt policy.

Aggregate Borrowing and Outstanding Debt

Table 22 summarizes the issuance of original long-term general and self-liquidating state obligations on an annual basis from 1907 to 1956. As shown in Table 22, the volume of original state debt floated during the period

¹Allen and Axt, p. 151.

TABLE 22

ORIGINAL LONG-TERM GENERAL AND SELF-LIQUIDATING STATE DEBT
ISSUED IN OKLAHOMA, ANNUAL TOTALS, 1907-1956^a

Year ^b	Total number of issues ^c	Net amount (in thousands) ^d		
		General debt	Self-liquidating debt	Total debt ^e
1908	1	\$ 1,460	\$.....	\$ 1,460
1910	1	2,452	.....	2,452
1913	1	2,907	.....	2,907
1924	2	.....	600	600
1927	1	.....	130	130
1933	1	13,030	.....	13,030
1934	2	.....	560	560
1935	9	10,310	1,336	11,646
1938	9	.....	15,309	15,309
1939	2	18,157	20	18,177
1940	1	.....	80	80
1941	1	17,226	.....	17,226
1945	1	.....	25	25
1946	6	.....	3,570	3,570
1947	3	.....	600	600
1948	8	.....	17,320	17,320
1949	4	.....	11,600	11,600

TABLE 22--Continued

Year ^b	Total number of issues ^c	Net amount (in thousands) ^d		
		General debt	Self-liquidating debt	Total debt ^e
1950	6	\$36,000	\$34,800	\$70,800
1951	1	.....	275	275
1952	5	.....	9,751	9,751
....				
1954	5	.....	76,254	76,254
1955	5	15,000	860	15,860
1956 ^f	1	.....	225	225
Total ^e	76	\$116,541	\$173,315	\$289,856

^aSources: Tables 2, 5, 12, 15, 16. Bonds issued without statutory authority by corporate affiliates of state institutions for higher education and all bonds issued by local public trusts classified legally as state agencies were excluded from the tabulation. The bonds issued by the Oklahoma Educational Television Authority between 1954 and 1956 were not included in the tabulation, either, since all of those obligations were retired on the day of issuance. See Table 5, notes d and e.

^bYear of issuance of initial portion of an issue in some instances.

^cIssues consisting of more than one series of obligations were tabulated separately if the series were issued in different calendar years. Series 2 of the Building Bonds of 1950, however, was not shown separately. See Table 5, note c.

^dPar value of issues minus cancellations, if any.

^eComponents may not add to totals because of rounding.

^fTo June 30.

totaled almost \$290,000,000. General obligations constituted approximately 40 per cent of the total original debt issued, and 60 per cent consisted of self-liquidating bonds. Excluding the issue for funding unpaid warrants outstanding in 1941,² forty-five of the seventy-six original issues were floated subsequent to the adoption of the "budget-balancing amendment." These forty-five issues exceeded \$206,000,000 and represented more than 70 per cent of the total original debt incurred during the entire period of statehood. About four-fifths of the obligations issued after 1941 consisted of self-liquidating bonds, according to the data in Table 22.

Annual totals of refunding operations are shown in Table 23. As noted in Table 23, all of the debt refunded consisted of self-liquidating obligations. State institutions and agencies floated a total of eleven separate refunding issues and issues including both original and refunding bonds, according to the tabulation. These obligations amounted to slightly more than \$39,000,000. Aggregate original and refunding issues for the period 1907-1956 totaled \$329,130,000.

²These obligations, the Funding Bonds of 1941, were specifically authorized in the "budget-balancing amendment" (supra, Chapter III, p. 95).

TABLE 23
REFUNDING OF STATE DEBT IN OKLAHOMA,
ANNUAL TOTALS, 1907-1956^a

Year	Number of issues ^b	Amount refunded (in thousands)
..... 1946	3	\$14,171
..... 1949	1	13,800
1950	1	2,380
1951	1	963
1952	2	1,614
..... 1954	3	6,346
.....		
Total	11	\$39,274

^aSources: Tables 14, 16. All of the debt refunded consisted of self-liquidating obligations. Series 2 of the Building Bonds of 1950 was excluded from the tabulation. See Table 5, note c.

^bSeparate refunding issues or issues including both original and refunding obligations.

Total gross long-term state debt outstanding in Oklahoma, as indicated in Table 24, rose to over \$6,000,000 in the first decade of statehood and then declined steadily to a minimum of \$1,424,000 in fiscal 1932. Prior to the 1930's, as shown in Table 24, most of the state's outstanding debt consisted of general obligations. The heavy volume of general borrowing and the issuance of a large amount of self-liquidating bonds during the latter part of the depression increased gross outstanding debt to almost \$42,000,000 in fiscal 1940. At that time, general debt exceeded self-liquidating debt by about \$9,000,000.

Following the funding operation of 1941, which raised aggregate gross state indebtedness to almost \$53,000,000 in fiscal 1942, the total gross amount of outstanding obligations declined to a postwar minimum of \$38,543,000 in fiscal 1948. Despite small reductions in some intervening years, gross outstanding general debt grew more than \$24,000,000 and outstanding self-liquidating obligations increased almost \$142,000,000 between the fiscal years 1948 and 1956. Aggregate gross long-term state debt, including \$42,006,000 of outstanding general obligations and \$162,454,000 of outstanding self-liquidating bonds, totaled \$204,460,000 at the end of fiscal 1956. The net increase in total debt between 1942

TABLE 24

GROSS LONG-TERM GENERAL, SELF-LIQUIDATING, AND TOTAL STATE
DEBT OUTSTANDING IN OKLAHOMA, BIENNIALY, 1908-1940,
AND ANNUALLY, 1941-1956^a

(in thousands)

Fiscal year ^b	General debt	Self-liquidating debt ^c	Total debt ^d
1908	\$ 1,460	\$.....	\$ 1,460
1910	1,958	.....	1,958
1912	3,055	.....	3,055
1914	N.r. ^e	.....	N.a. ^f
1916	6,447	.....	6,447
1918	6,329	.....	6,329
1920	N.r. ^e	.....	N.a. ^f
1922	4,452	.....	4,452
1924	3,928	.....	3,928
1926	2,789	600	3,389
1928	2,031	730	2,761
1930	1,359	690	2,049
1932	770	654	1,424
1934	12,580	1,189	13,769
1936	17,654	2,503	20,157
1938	8,469	12,595 ^g	21,064 ^g
1940	25,344	16,315	41,659
1941	22,412	16,255 ^g	38,666 ^g
1942	36,737	16,122 ^g	52,859 ^g
1943	29,098	N.r. ^e	N.a. ^f
1944	26,845	15,789 ^g	42,634 ^g
1945	24,632	N.r. ^e	N.a. ^f
1946	23,974	17,550	41,524
1947	20,376	20,598	40,974

TABLE 24--Continued

Fiscal year ^b	General debt	Self-liquidating debt ^c	Total debt ^d
1948	\$17,758	\$ 20,786	\$ 38,543
1949	17,650	N.r. ^e	N.a. ^f
1950	48,915	48,896	97,811
1951	45,536	81,531	127,067
1952	43,327	82,858	126,184
1953	37,854	88,621	126,475
1954	33,902	88,842	122,743
1955	28,816	162,004	190,820
1956	42,006	162,454	204,460

^aSources: Tables 3, 7, 12, 15, 17.

^bEnding November 30 to 1914, and June 30 thereafter, for all debt except the outstanding bonds of the Grand River Dam Authority. The latter obligations were reported as of December 31 of each year.

^cExcluded bonds issued without statutory authority by corporate affiliates of state institutions for higher education and all bonds issued by local public trusts classified legally as state agencies.

^dComponents may not add to totals because of rounding.

^eNot reported or not reported in full in cited sources.

^fNot available because of incomplete data in cited sources.

^gAdditional bonds reserved for issuance and delivery.

and 1956 was almost four-fold.

Table 25, covering the period from 1908 to 1940, compares state population and expenditure at biennial intervals to the net change in total gross outstanding long-term state debt. According to Table 25, the population of Oklahoma grew intermittently to a peak of 2,401,000 in 1930 and declined during the following decade to about 2,300,000 in 1940. In contrast, the general trend of state expenditure was upward over the same period. Expenditure for state purposes, including debt redemption, increased from about \$3,000,000 annually in the early years of statehood to more than \$80,000,000 a year at the end of the period. A continuous comparable series of data on total state revenue during the first three decades of Oklahoma history could not be compiled from either primary or secondary sources.³ Available statistics reveal approximate equality of revenue and

³ See Warren E. Moeller, "Some Aspects of the Taxing and Spending Activities of the State Government of Oklahoma" (unpublished Master's thesis, University of Oklahoma, 1950), p. 65. Researchers of the Brookings Institution complained in 1935 that it "required months of arduous labor by a staff of workers" to assemble accurate data on Oklahoma state revenue for one fiscal year (The Brookings Institution, Report on a Survey of Organization and Administration of Oklahoma, p. 423). In 1940 Findley Weaver stated that it was "practically impossible to arrive at an accurate figure for the total amount of state revenue, except for recent years, and reconcile this figure with various official reports" (Weaver, p. 45).

TABLE 25

POPULATION, ANNUAL EXPENDITURE, AND NET CHANGE IN TOTAL
GROSS OUTSTANDING LONG-TERM DEBT OF THE STATE OF
OKLAHOMA, BIENNIALY, 1908-1940^a

(in thousands)

Fiscal year ^b	Population	Expenditure ^c	Net change in debt
1908	1,495 ^d	\$ N.r. ^e	\$ 1,460
1910	1,657	3,253	498
1912	1,842 ^d	3,438	1,097
1914	2,026	3,979	N.a. ^f
1916	2,202	4,366	3,392 ^g
1918	2,378	5,330	-118
1920	2,028	10,250	N.a. ^f
1922	2,118	10,834	-1,877 ^g
1924	2,190	15,405	-524
1926	2,261	22,133	-539
1928	2,333	32,598	-628
1930	2,401	36,742	-712
1932	2,394	30,001	-625
1934	2,391	29,860	12,345
1936	2,365	43,560	6,388
1938	2,324	87,016	907
1940	2,325	80,331	20,595

^aSources: U.S., Bureau of the Census, Statistical Abstract of the United States, 1910-1920 (Washington: U.S. Government Printing Office, 1911-1921); U.S., Bureau of the Census, Statistical Abstract of the United States, 1931 (Washington: U.S. Government Printing Office, 1931), p. 7;

TABLE 25--Continued

U.S., Department of Commerce, Personal Income by States Since 1929 (Washington: U.S. Government Printing Office, 1956), p. 144; Biennial Report of the State Auditor, State of Oklahoma, 1936-1940; Table 24. Population figures, except as noted, were taken from the Statistical Abstract for the period 1908-1928, and from Personal Income by States Since 1929 for the period 1930-1940; data on expenditure were derived from the Biennial Report of the State Auditor; and net debt changes were computed from the data in Table 24.

^bEnding November 30 to 1914, and June 30 thereafter.

^cExpenditure for state purposes, including debt redemption.

^dEstimated by interpolation.

^eNot reported in cited source.

^fNot available because of incomplete data in cited source.

^gIncrease or decrease over two bienniums.

expenditure during the first few years of statehood and annual total deficits of \$4,000,000 to \$9,000,000 over the last half of the depression decade.⁴

As indicated in Table 25, net changes in outstanding state debt bore little relation to variations in population or expenditure over most of the period to 1940. Several large biennial increments to outstanding indebtedness in the 1930's resulted from the funding of recurrent deficits and the issuance of a record volume of self-liquidating obligations.⁵ However, total state expenditure was on the decline during the first half of the decade and increased sharply only in the late 1930's.

Minor fluctuations in state population between 1942 and 1956 are disclosed in Table 26. At the end of the period, population slightly exceeded 2,200,000. Over the entire half-century of statehood, Oklahoma achieved a gain of about 50 per cent over its initial population.

As shown in Table 26, annual state revenue and borrowed funds increased from less than \$108,000,000 in fiscal

⁴Warren E. Moeller, "Some Aspects of the Taxing and Spending Activities of the State Government of Oklahoma" (unpublished Master's thesis, University of Oklahoma, 1950), pp. 65-66. These data included long-term borrowing and debt redemption.

⁵See Table 22, above.

TABLE 26

POPULATION, ANNUAL REVENUE, ANNUAL EXPENDITURE, AND NET
CHANGE IN TOTAL GROSS OUTSTANDING LONG-TERM DEBT OF
THE STATE OF OKLAHOMA, BIENNIALY, 1942-1950,
AND ANNUALLY, 1951-1956^a
(in thousands)

Fiscal year	Population	Revenue ^b	Expenditure ^c	Net change in debt
1942	2,228	\$107,709	\$ 90,791	\$11,200 ^d
1944	2,056	120,560	95,664	-10,225
1946	2,131	152,271	134,578	-1,110
1948	2,089	216,065	199,485	-2,981
1950	2,218	306,755	289,116	59,268
1951	2,184	316,239	295,857	29,256
1952	2,189	297,928	317,814	-883
1953	2,166	318,183	338,786	291
1954	2,186	318,467	320,621	-3,732
1955	2,210	404,540	333,349	68,077
1956	2,237	375,186	384,278	13,640

^aSources: U.S., Department of Commerce, Personal Income by States Since 1929 (Washington: U.S. Government Printing Office, 1956), p. 145; Robert E. Graham, Jr., "Personal Income by States in 1956," Survey of Current Business, XXXVII (August, 1957), 11; U.S., Bureau of the Census, Revised Summary of State Government Finances, 1942-1950 (Washington: U.S. Government Printing Office, 1953), p. 39; U.S., Bureau of the Census, Compendium of State Government Finances, 1951-1956 (Washington: U.S. Government Printing Office, 1952-1957); Table 24. Population figures were taken from the first two sources cited; data on revenue and expenditure were derived from the Revised Summary and the Compendium; and net debt changes were computed from the data in Table 24.

^bIncluded borrowing.

^cIncluded debt redemption.

^dIncrease over preceding biennium.

1942 to about \$375,000,000 in fiscal 1956. In fiscal 1955, revenue and borrowing exceeded \$400,000,000. Annual state expenditure, including debt redemption, grew more than four-fold during the period, rising from about \$91,000,000 in fiscal 1942 to slightly over \$384,000,000 in fiscal 1956. As noted in Table 26, data on revenue and expenditure were derived from publications of the U.S. Bureau of the Census. For this period, primary state reports were considered inadequate sources of such data, since they excluded the revenue and expenditure of autonomous state agencies and some receipts of institutions for higher education.⁶

In Table 26, net changes in total gross outstanding debt are presented on a biennial basis from 1942 to 1950 and on an annual basis from 1951 to 1956. These data reveal that

⁶The largest amounts of unreported revenue and expenditure are those of the Grand River Dam Authority and the Oklahoma Turnpike Authority. For example, in the case of expenditure, compare Bureau of the Census, Compendium of State Government Finances, 1956, pp. 22, 34, and 37 with State of Oklahoma, Budget, 1958-1959, pp. 170-76. Most of the sinking funds for postwar college revenue bonds are maintained in trustee banks and the State Treasurer has no record of the amount accruing to these accounts (Annual Report of the State Treasurer of the State of Oklahoma, 1956, p. 45). In using Census data, the writer disregarded minor differences between the Bureau of the Census reports and this study concerning coverage of state governmental activities.

moderate net decreases in outstanding indebtedness were achieved between 1942 and 1948, while annual revenue and expenditure were both rising rapidly. Despite the irregularity of the subsequent changes, it is apparent that substantial net increases in debt accompanied the general growth of state revenue and expenditure during the 1950's. The figures for annual revenue, expenditure, and net debt change in the 1950's reflect a lag between the receipt and disbursement of bond proceeds and other funds.

Burden of State Indebtedness

Students of American state and local finance have devised several intricate methods of analyzing fiscal capacity and the burden of public debt.⁷ In this study only a few basic series were utilized to indicate the burden of Oklahoma's state indebtedness.⁸ These data were organized to demonstrate the effects of price changes, population

⁷For example, see Trull, pp. 90-110; and Ratchford, American State Debts, pp. 524-41. Other indexes of this type are described in Maryland State Planning Commission, Management and Limits of the State Debt (Baltimore: Maryland State Planning Commission, 1953), pp. 14-23; 36-45.

⁸Limitations on availability of data and restriction of the scope of the study prohibited an extensive analysis of the burden of state debt.

fluctuations, and changes in personal income on the relative debt burden. Comprehensive data on interest payments and net indebtedness could be obtained only for recent years.

In Table 27 total and per capita gross outstanding long-term state debt are shown in current and constant dollars on a biennial basis for the fiscal years 1916 to 1956. As noted in Table 27, the U.S. Department of Labor's Consumer Price Index--based on the period 1947-1949--was used to convert current into constant dollars. To the extent that state debt service must be paid out of personal income, this method of price deflation was considered justifiable.⁹

⁹For a brief description of the Consumer Price Index, see U.S., Bureau of Labor Statistics, The Consumer Price Index: A Short Description of the Index as Revised (Washington: U.S. Government Printing Office, 1953). The complete name of the index is "Index of Change in Prices of Goods and Services Purchased by City Wage-Earner and Clerical-Worker Families to Maintain Their Level of Living." It is based on the "market basket" concept of purchases by moderate income families. Average annual index numbers are available back to 1913. For the results of an alternative method of deflating state debts, see The Council of State Governments, State Finances: 1948, 1952 and 1955 (Chicago: The Council of State Governments, 1957), pp. 22-70. In that study, implicit price deflators for purchases of goods and services by state and local governments were used to convert current dollar debt into constant dollar debt. These deflators are computed annually by the National Income Division of the Office of Business Economics, U.S. Department of Commerce, in conjunction with constant dollar estimates of gross national product (U.S., Department of Commerce, National Income: 1954 Edition [Washington: U.S. Government Printing Office, 1954], pp. 153-58). They have the disadvantage of reflecting

TABLE 27

TOTAL AND PER CAPITA GROSS OUTSTANDING LONG-TERM STATE DEBT
OF OKLAHOMA, IN CURRENT AND CONSTANT DOLLARS,
BIENNIALLY, 1916-1956^a

Fiscal year ^b	Total debt (in thousands)		Per capita debt	
	Current dollars	Constant dollars ^c	Current dollars	Constant dollars ^c
1916	\$ 6,447	\$ 13,835	\$ 2.93	\$ 6.28
1918	6,329	9,843	2.66	4.14
1920	N.r. ^d	N.a. ^e	N.a. ^e	N.a. ^e
1922	4,452	6,218	2.10	2.94
1924	3,928	5,373	1.79	2.45
1926	3,389	4,483	1.50	1.98
1928	2,761	3,767	1.18	1.61
1930	2,049	2,870	.85	1.20
1932	1,424	2,438	.59	1.02
1934	13,769	24,072	5.76	10.07
1936	20,157	33,992	8.52	14.37
1938	21,064 ^f	34,932 ^f	9.06 ^f	15.03 ^f
1940	41,659	69,548	17.92	29.91
1942	52,859 ^f	75,838 ^f	23.72 ^f	34.04 ^f
1944	42,634 ^f	56,694 ^f	20.74 ^f	27.57 ^f
1946	41,524	49,789	19.49	23.36
1948	38,543	37,493	18.45	17.95
1950	97,811	95,147	44.10	42.90
1952	126,184	111,175	57.64	50.79
1954	122,743	106,919	56.15	48.91
1956	204,460	175,955	91.40	78.66

^aSources: Tables 24, 25, 26; U.S., Bureau of the Census, Statistical Abstract of the United States, 1957

TABLE 27--Continued

(Washington: U.S. Government Printing Office, 1957), p. 328. Data on debt in current dollars were taken from Table 24; population figures were taken from Tables 25 and 26; and the price deflators for converting current into constant dollars were taken from the U.S. Department of Labor's Consumer Price Index, published in the Statistical Abstract. The index number for the corresponding calendar year was used in each instance.

^bEnding June 30 for all debt except the outstanding bonds of the Grand River Dam Authority. The latter obligations were reported as of December 31 of each year.

^c1947-1949 equals 100.

^dNot reported in cited source.

^eNot available because of incomplete data in cited source.

^fAdditional bonds reserved for issuance and delivery.

Measured in constant dollars of 1947-1949 purchasing power, the total gross long-term debt of Oklahoma, according to Table 27, declined steadily from about \$14,000,000 in fiscal 1916 to a minimum of \$2,438,000 in fiscal 1932. Between the fiscal years 1932 and 1942, total gross long-term debt in constant dollars increased about thirty-two times, compared to a thirty-eight-fold concurrent increase in total current dollar debt. From fiscal 1942 to fiscal 1956, total gross long-term constant dollar debt rose approximately two and one-third times, while over the same period, as stated above, total debt in current dollars increased almost four-fold. The fiscal years 1942-1956, as explained above, represent the effective period of the budget-balancing amendment.

Per capita gross long-term debt figures in current dollars reveal a decline from \$2.93 in fiscal 1916 to a minimum of \$.59 in fiscal 1932. Per capita current debt reached \$32.72 in fiscal 1942 and, after declining slightly in the mid-1940's, rose to \$91.40 in fiscal 1956. Measured in dollars of 1947-1949 purchasing power, per capita gross long-term debt fell from \$6.28 in fiscal 1916 to \$1.02 in fiscal

changes in product composition as well as changes in prices in comparisons not involving 1947, the base year (*ibid.*, p. 158). Moreover, such deflators are not available for years prior to 1929 (*ibid.*, pp. 216-17).

1932, and then increased in succeeding years to \$34.04 in fiscal 1942. In constant dollars, per capita gross debt stood at \$78.66 in fiscal 1956. Both series show that per capita gross long-term debt was at its highest point in state history at the end of fiscal 1956.

The U.S. Department of Commerce data in Table 28 indicate that total personal income in Oklahoma increased a little over two and one-half times between 1932 and 1942, rising from \$516,000,000 in 1932 to \$1,390,000,000 in 1942. As pointed out above, total gross long-term debt in current dollars rose thirty-eight-fold over the same period. Between 1932 and 1942, as shown in Table 28, per capita personal income increased from \$216 to \$624, or almost three times. The figures cited above reveal a concurrent thirty-nine-fold expansion of per capita gross long-term debt in current dollars.¹⁰

According to Table 28, total personal income amounted to almost \$3,500,000,000 in 1956. For the period 1942-1956, the four-fold rise in total debt was thus accompanied by an

¹⁰The choice of 1932 as a base year of comparison was dictated by the fact that the minimum levels of personal income and gross outstanding state debt coincided at that time. Department of Commerce data on personal income are available back to 1929, however. The use of the personal income series, it should be noted, was not meant to imply that all debt service is paid out of such income.

TABLE 28

ANNUAL TOTAL AND PER CAPITA STATE PERSONAL INCOME
OF OKLAHOMA, BIENNIALY, 1932-1956^a

Year	Total personal income (in millions)	Per capita personal income
1932	\$ 516	\$ 216
1934	590	247
1936	749	317
1938	797	343
1940	867	373
1942	1,390	624
1944	1,940	944
1946	2,000	939
1948	2,359	1,129
1950	2,514	1,133
1952	3,060	1,398
1954	3,156 ^b	1,444 ^b
1956	3,491	1,561

^aSources: U.S., Department of Commerce, Personal Income by States Since 1929 (Washington: U.S. Government Printing Office, 1956), pp. 140-43; Robert E. Graham, Jr., "Personal Income by States in 1956," Survey of Current Business, XXXVII (August, 1957), 11. State personal income is defined as "the current income received by residents of the States from all sources, inclusive of transfers from government and business, but exclusive of transfers among persons" (Department of Commerce, Personal Income by States Since 1929, p. 57). Residents include principally individuals, but also nonprofit institutions; personal income includes a small amount of nonmonetary income (ibid.).

^bRevised data, as shown in Graham, Survey of Current Business, XXXVII (August, 1957), 11.

approximate two and one-half-fold increase in total personal income. Because of the relative stability of population over the interval, similar increases are indicated for per capita personal income and debt. As shown in Table 28, per capita personal income in 1956 exceeded \$1,500. Differential changes in constant dollar series of personal income and debt would, of course, be identical to the current dollar changes if the same deflators were used on both series.¹¹

The writer made no attempt to compile primary data on total interest requirements or on the total net outstanding debt of Oklahoma.¹² Table 29 presents U.S. Bureau of the Census data on these series for the period 1942-1956. The gross long-term Oklahoma debt totals reported by the Bureau of the Census for that period, which are also shown in Table 29, corresponded rather closely to those presented in Table

¹¹The Department of Commerce does not publish an official series of deflated state personal income.

¹²Primary state reports, as noted in the introduction to this study, were generally unavailable for the first two decades of statehood. Otherwise, the writer was deterred from collecting data on total interest payments principally by the infeasibility of securing and analyzing annual reports from each of the eighteen state institutions for higher education for the postwar period. Consistent primary series on net debt could not be compiled for either outstanding general obligations or college revenue bonds, because of deficiencies in the sources which were noted previously in the study.

TABLE 29

BUREAU OF CENSUS DATA ON TOTAL GROSS OUTSTANDING LONG-TERM
DEBT, ANNUAL INTEREST PAYMENTS, AND TOTAL NET
OUTSTANDING LONG-TERM DEBT OF THE STATE OF
OKLAHOMA, BIENNIALY, 1942-1950, AND
ANNUALLY, 1951-1956^a
(in thousands)

Fiscal year	Total gross debt	Interest payments	Total net debt
1942	\$ 54,123	\$1,389 ^b	\$ 53,280
1944	43,925	693 ^c	26,186
1946	41,261	568 ^c	17,070
1948	37,613	1,081	18,920
1950	96,346	1,688	80,430
1951	128,808	2,116	111,887
1952	126,568	4,085	111,554
1953	128,934	3,695	115,941
1954	124,376	2,965	114,411
1955	194,361	4,288	187,128
1956	206,949	6,340	201,104

^aSources: U.S., Bureau of the Census, Revised Summary of State Government Finances, 1942-1950 (Washington: U.S. Government Printing Office, 1953), p. 39; U.S., Bureau of the Census, Compendium of State Government Finances, 1951-1956 (Washington: U.S. Government Printing Office, 1952-1957).

^bIncluded interest on \$9,000 of short-term debt.

^cSame as unrevised data published in earlier annual reports.

24.¹³ According to the Census data, annual interest payments on state debt increased over four-fold--from \$1,389,000 to \$6,340,000--between the fiscal years 1942 and 1956.¹⁴

¹³In most of the fiscal years during the period, the debt totals reported by the Bureau of the Census exceeded those compiled by the writer. As nearly as could be determined, such differences were mainly the result of the exclusion from the writer's data of revenue bonds issued without statutory authority by corporate affiliates of state institutions for higher education. Also, in the early 1940's, the Bureau of the Census apparently reported as outstanding debt the obligations of the Grand River Dam Authority reserved for issuance and delivery to the federal government. Unexplainable discrepancies account for the excess of the writer's totals over those of the Bureau of the Census in other years. The Bureau of the Census initially collects its state financial data by mail canvass and later compiles detailed information directly from official accounts. Some of these figures are revised for conformity to standard classifications used in its publications (U.S., Bureau of the Census, Relation of Census Statistics on Governmental Finances to Original Sources [Washington: U.S. Government Printing Office, n.d.], pp. 2-3).

¹⁴In 1951 the Bureau of the Census discontinued a distinction between interest on general government debt and interest on debt of state enterprises. Since that time, state interest payments have included amounts for all types of indebtedness (letter from Lynden Mannen, Chief, Financial Compilation and Analysis Branch, Governments Division, U.S. Bureau of the Census, Washington, D.C., May 2, 1957). For individual states, revised data on total interest expenditure are available back to 1942 (Bureau of the Census, Revised Summary of State Government Finances, 1942-1950, pp. 6-53). However, as noted in Table 29, the data on Oklahoma interest payments for fiscal 1944 and 1946 are the same as earlier, unrevised figures. These figures appear to be incorrect. The large variations in the amounts of interest shown for the early 1950's may also reflect inaccuracies in Census reporting. The large increase in total interest payments between fiscal 1955 and 1956 is probably due to the

However, interest accounted for less than 2 per cent of the total state expenditure reported in Table 26 for fiscal 1956.¹⁵ The calculated interest rate on total gross outstanding state debt for fiscal 1956 was 3.06 per cent.

The total net long-term debt of the state, as shown in Table 29, was reduced to a postwar minimum of \$17,070,000 in fiscal 1946. By fiscal 1956 sinking funds and other off-setting assets had declined to about \$6,000,000, and net indebtedness exceeded \$201,000,000. The latter amount included the Building Bonds of 1950 and 1955 held by the State Treasurer.¹⁶

The writer was unable to obtain comprehensive data on

fact that a full year's interest did not have to be paid on the Northeastern Turnpike Bonds until fiscal 1956. These bonds were issued in the middle of the fiscal year 1955 (supra, Chapter V, p. 248).

¹⁵For fiscal 1956, interest earned on Series 1 of the Building Bonds of 1950 amounted to \$374,416 (letter from Burton Logan, State Budget Director, Division of the Budget, State of Oklahoma, Oklahoma City, July 18, 1958). These bonds are held by the State Treasurer and the interest is paid into the General Revenue Fund (supra, Chapter III, p. 113, note 84). In the budget document this transaction is handled as a transfer of funds, but the payments are apparently included in Census data as both revenue and expenditure.

¹⁶An alternative concept of net state debt, excluding such obligations, is mentioned above, Chapter III, p. 131, note 137.

the ownership of Oklahoma state debt obligations.¹⁷ According to national estimates, individuals and commercial banks held the bulk of state and local government securities in 1956. Holdings of insurance companies and state and local governments were also substantial.¹⁸

Information on the volume of obligations held outside the state would permit a more precise measure of the burden

¹⁷Other than the data on obligations held by the State Treasurer, the only information available for recent years was that compiled on the ownership of college revenue bonds by Professor James M. Murphy, Department of Finance, University of Oklahoma. In an interview with a commercial bank official who preferred to remain unidentified, the writer was told that it would be impossible to determine the ownership of state debt obligations. In connection with the ownership of larger issues, a statement of Norman Hirschfield, Chairman of the Oklahoma Turnpike Authority, was revealing. Referring to the proposed issue of \$214,000,000 of turnpike bonds in 1954 (*supra*, Chapter V, pp. 244-48), he stated: "There is virtually only one market for an issue of this size. The money must come primarily from insurance companies, trust funds, pension funds and individuals who are in the high tax bracket and want tax exempt bonds" (*The Daily Oklahoman*, October 27, 1954, p. 8).

¹⁸U.S., Secretary of the Treasury, Annual Report of the Secretary of the Treasury on the State of the Finances for the Fiscal Year Ended June 30, 1956 (Washington: U.S. Government Printing Office, 1957), p. 497. According to these estimates, individuals owned approximately 41 per cent of such securities; commercial banks held about 27 per cent; and insurance companies and state and local governments accounted for over 25 per cent of the obligations. On the ownership of state and local debt, also see George E. Lent, The Ownership of Tax-Exempt Securities, 1913-1953 (New York: National Bureau of Economic Research, Inc., 1955).

of Oklahoma's indebtedness. As explained by Hansen and Perloff:

Basically, for most state and local units, borrowing is similar to the receipt by a national government of credit from abroad. Since to a large extent the funds must come from institutions and individuals located in other jurisdictions, the payment of interest and the repayment of principal involve a siphoning of income out of the local area and not merely a redistribution of income within the same community. Unlike the situation for the national government which borrows from its own citizens, the payment of interest charges involves a real cost to the members of a debtor locality. The fact that this is so does not imply, however, that states and localities should, under all circumstances, avoid borrowing. The net benefits to be derived from the expenditure of the borrowed funds may well justify the cost of borrowing. But the cost is, nevertheless, a real cost in the sense that to the extent that funds must be paid out to "foreign" individuals and institutions, such tax funds are not returned to the members of the locality itself.¹⁹

Debt Financing by Function

Original long-term Oklahoma state debt incurred by purpose of borrowing between 1907 and 1956 is shown on an annual basis in Table 30. For this tabulation, state

¹⁹Alvin H. Hansen and Harvey S. Perloff, State and Local Finance in the National Economy (New York: W. W. Norton and Co., 1944), p. 196. This study also pointed out that, because of the regressivity of state and local taxes, "the burden weighs particularly heavily upon the lower-income groups" (ibid.). Many so-called "user charges" for servicing self-liquidating debt might also be considered a form of regressive taxation.

TABLE 30

ORIGINAL LONG-TERM STATE DEBT ISSUED IN OKLAHOMA,
 BY FUNCTION, ANNUAL TOTALS, 1907-1956^a
 (in thousands)

Year ^b	Funding	Public buildings ^c	Resource development ^d	Toll roads
1908	\$ 1,460	\$.....	\$.....	\$.....
1910	.....	2,452	.....	.....
1913	2,907	.....	.....	.....
1924	.....	600	.....	.....
1927	.....	130	.....	.....
1933	13,030	.....	.....	.....
1934	.....	560	.....	.....
1935	10,310	1,336	.....	.....
1938	.....	1,309	14,000	.....
1939	18,157	20	.....	.....
1940	.....	80	.....	.....
1941	17,226	.....	.....	.....
1945	.....	25	.....	.....
1946	.....	3,570	.....	.....
1947	.....	600	.....	.....
1948	.....	17,320	.....	.....
1949	.....	1,450	10,150	.....

TABLE 30--Continued

Year ^b	Funding	Public buildings ^c	Resource development ^d	Toll roads
1950	\$.....	\$39,800	\$.....	\$31,000
1951	.....	275	.....	.....
1952	.....	2,751	.....	7,000
....				
1954	.....	1,904	6,350	68,000
1955	.....	15,860	.....	.....
1956	.....	225	.....	.....
Total ^e	\$63,090	\$90,266	\$30,500	\$106,000

^aSources: Tables 2, 5, 12, 15, 16. The data show the par value of issues minus cancellations, if any. Components may not add to the totals shown in Table 22 because of rounding.

^bYear of issuance of initial portion of an issue in some instances.

^cPublic Building Bonds of 1910-1911, Building Bonds of 1950 and 1955, and college revenue bonds issued under statutory authority.

^dBonds issued by Grand River Dam Authority and Planning and Resources Board.

^eComponents may not add to totals because of rounding.

functions financed out of the proceeds of debt issues were classified as funding, public buildings, resource development, and toll roads. As noted in Table 30, obligations floated for the construction and improvement of public buildings comprised the Public Building Bonds of 1910-1911, the Building Bonds of 1950 and 1955, and all college revenue bonds issued under statutory authority. College stadiums and utility systems were included in this category.²⁰ Bonds for financing resource development consisted of the flotations of the Grand River Dam Authority and the Planning and Resources Board.

State funding obligations totaled about \$63,000,000, according to Table 30. These obligations, which constituted approximately 22 per cent of the aggregate original long-term debt issued since statehood, were all floated between 1908 and 1941. They accounted for well over half the total amount of the long-term general debt issues tabulated above in Table 22.

For the construction of public buildings and related facilities, over \$90,000,000 of debt was incurred between 1907 and 1956. These bonds represented about 31 per cent of the aggregate original long-term state debt issued during the

²⁰Supra, Chapter IV, Table 13.

period. General debt floated for this purpose totaled approximately \$53,000,000, compared to some \$37,000,000 of self-liquidating college bonds.²¹ The bulk of the obligations in this category, as indicated in Table 30, was issued in the post-World War II period.

According to Table 30, a little less than 11 per cent of the aggregate original long-term debt issued between 1907 and 1956 consisted of bonds for financing state resource development. This function--including conservation, public power development, and state park construction--accounted for a total of \$30,500,000 of original flotations. These issues were all self-liquidating.²²

The largest single amount of debt was incurred for the construction of state toll roads. Turnpike issues totaled \$106,000,000, or almost 37 per cent of the aggregate original long-term debt floated since 1907. These bonds were self-liquidating and were all marketed in the last seven years of the period.²³

Gross long-term state debt outstanding by function--

²¹Supra, Chapter II, Table 2; Chapter III, Table 5; Chapter IV, Tables 12 and 15.

²²Supra, Chapter V, passim.

²³Ibid.

biennially from 1908 to 1940 and annually from 1941 to 1956-- is presented in Table 31. As shown in Table 31, the only debt outstanding prior to 1938 consisted of funding obligations and bonds issued for public buildings. Over most of this time, funding debt exceeded the latter obligations. The Grand River Dam Authority issued the initial bonds for resource development in 1938.²⁴

At the end of fiscal 1942, funding debt constituted almost 70 per cent of aggregate gross long-term state indebtedness. During succeeding years, these obligations were practically all retired out of surplus general revenue and specific sinking fund allocations.²⁵ At the end of fiscal 1956, as shown in Table 31, only \$706,000 of funding bonds remained outstanding.

Debt incurred for other functions rose rapidly in the postwar period. Outstanding public building obligations exceeded \$69,000,000 in fiscal 1956. The bulk of this debt represented bonds for financing construction at state institutions for higher education.²⁶ Gross outstanding long-term

²⁴Supra, Chapter V, Table 16.

²⁵Supra, Chapter III, pp. 101-07.

²⁶Public building debt outstanding in fiscal 1956 consisted of Building Bonds of 1950 and 1955 and college revenue bonds. The allocations of the proceeds of the former issues were detailed above, Chapter III, Table 9, and p. 130.

TABLE 31

GROSS LONG-TERM STATE DEBT OUTSTANDING IN OKLAHOMA,
 BY FUNCTION, BIENNIALLY, 1908-1940,
 AND ANNUALLY, 1941-1956^a

(in thousands)

Fiscal year ^b	Funding	Public buildings ^c	Resource development ^d	Toll roads
1908	\$ 1,460	\$.....	\$.....	\$.....
1910	1,460	498	.....	.....
1912	1,460	1,595	.....	.....
1914	N.r. ^e	N.r. ^e	.....	.....
1916	4,367	2,080	.....	.....
1918	4,367	1,962	.....	.....
1920	N.r. ^e	N.r. ^e	.....	.....
1922	2,827	1,625	.....	.....
1924	2,534	1,394	.....	.....
1926	1,640	1,749	.....	.....
1928	1,126	1,636	.....	.....
1930	721	1,329	.....	.....
1932	387	1,038	.....	.....
1934	12,453	1,316	.....	.....
1936	17,653	2,504	.....	.....
1938	8,469	2,595	10,000 ^f	.....
1940	25,344	3,615	12,700	.....
1941	22,412	3,555	12,700 ^f	.....
1942	36,737	3,422	12,700 ^f	.....
1943	29,098	N.r. ^e	12,700 ^f	.....
1944	26,845	3,089	12,700 ^f	.....
1945	24,632	N.r. ^e	12,700 ^f	.....
1946	23,974	3,550	14,000	.....
1947	20,376	6,698	13,900	.....

TABLE 31--Continued

Fiscal year ^b	Funding	Public buildings ^c	Resource development ^d	Toll roads
1948	\$17,758	\$ 6,986	\$13,800	\$.....
1949	17,650	N.r. ^e	23,950	.....
1950	12,915	60,946	23,950	.....
1951	9,536	62,726	23,805	31,000
1952	8,907	62,711	23,567	31,000
1953	7,054	58,104	23,317	38,000
1954	4,602	57,100	23,042	38,000
1955	1,016	54,797	29,007	106,000
1956	706	69,077	28,677	106,000

^aSources: Tables 3, 7, 12, 15, 17. For the period 1950-1956, data on outstanding funding obligations and Building Bonds of 1950 and 1955 were compiled from the Annual Report of the State Treasurer of the State of Oklahoma, 1950-1956 and the State of Oklahoma, Budget, 1952-1953--1958-1959. Components may not add to the totals shown in Table 24 because of rounding.

^bEnding November 30 to 1914, and June 30 thereafter, for all debt except the outstanding bonds of the Grand River Dam Authority. The latter obligations were reported as of December 31 of each year.

^cPublic Building Bonds of 1910-1911, Building Bonds of 1950 and 1955, and college revenue bonds issued under statutory authority.

^dBonds of Grand River Dam Authority and Planning and Resources Board.

^eNot reported in cited sources.

^fAdditional bonds reserved for issuance and delivery.

debt incurred especially for that purpose was exceeded in only three states at the end of fiscal 1956.²⁷ Outstanding debt in the category of resource development more than doubled between the fiscal years 1942 and 1956. These obligations totaled almost \$29,000,000 at the end of the period.

Well over half of the aggregate gross state debt outstanding in fiscal 1956 consisted of turnpike bonds. Turnpike obligations totaled \$106,000 on a gross basis, according to Table 31. In fiscal 1956, gross toll road indebtedness outstanding in Oklahoma was higher in only fourteen states.²⁸

²⁷Bureau of the Census, Compendium of State Government Finances, 1956, p. 42. The states were Indiana, Michigan, and Texas. For Oklahoma and possibly other states, this comparison excluded outstanding bonds issued as a part of multiple purpose flotations--such as the Oklahoma Building Bonds of 1950 and 1955--which could be prorated as college debt. The Bureau of the Census classifies all such issues as "miscellaneous and unallocable" (letter from Lynden Mannen, Chief, Financial Compilation and Analysis Branch, Governments Division, U.S. Bureau of the Census, Washington, D.C., May 2, 1957).

²⁸Bureau of the Census, Compendium of State Government Finances, 1956, p. 42. The largest single amount of outstanding toll road debt was that owed by New Jersey. Outstanding obligations incurred for toll roads and other highway facilities constituted over half the total gross long-term debt of the forty-eight states in fiscal 1956. Debt incurred for education and veterans' bonus bonds each accounted for over 10 per cent of the states' aggregate gross long-term indebtedness (*ibid.*). Further interstate comparisons of debt outstanding by function were precluded by differences between the Census classifications and those of the writer. The Bureau of the Census did not list a separate category of

An Interstate Comparison of General
Debt Controls

Twenty of the American state governments operate under constitutions which do not permit legislative debt issuance over designated amounts except through constitutional amendments.²⁹ Oklahoma is one of twenty other states in the Union whose constitutions require popular referenda for the approval of debt flotations exceeding stated limits.³⁰ In three state constitutions, only procedural restrictions are imposed upon legislative borrowing.³¹ Five states have

state debt outstanding for resource development until 1957 (Bureau of the Census, Compendium of State Government Finances, 1957, p. 39).

²⁹The Tax Foundation, Constitutional Debt Control in the States, p. 13. Among these states is Alabama, whose constitutional debt restriction applies to the executive rather than the legislative branch of state government.

³⁰Ibid. A constitutional prohibition of state ad valorem taxation effectively places Oklahoma in the category of states whose constitutions must be amended to permit borrowing (supra, Chapter III, p. 110, note 74). Otherwise the Governor may authorize the issuance of a maximum of \$500,000 of short-term debt during a fiscal year (Oklahoma, Constitution, Art. X, sec. 23). For the results of an earlier attempt to classify the forty-eight states by location of "effective" borrowing power, see Ratchford, American State Debts, pp. 433-35.

³¹These restrictions include the affirmation of debt authorizations by legislative majorities ranging from two-thirds to three-fourths of each house and prescribed procedures for debt management (The Tax Foundation, Constitutional Debt Control in the States, p. 14). Maryland is the only one of these states with a debt limit.

constitutions which contain no restrictions on the creation of indebtedness by legislators.³²

Table 32 summarizes a study of constitutional state debt limits conducted by the Tax Foundation in 1954.³³ This tabulation reveals that there are three states in which no borrowing is ordinarily permitted;³⁴ and four states, according to Table 32, are similarly restricted except for meeting casual deficits.³⁵ Nineteen states operate under dollar limits ranging from \$50,000 to \$500,000, and among ten other

³²The Tax Foundation's grouping of the states by type of constitutional restriction on borrowing is shown below in Table 33.

³³Constitutional Debt Control in the States. A short-coming of this study was the failure to note in each instance whether the designated limit applied to annual debt issuance or aggregate debt outstanding at any one time. A check of several constitutions indicated variations between these two types of limits. As noted in Table 32, the writer made a slight adjustment in the Tax Foundation's description of Oklahoma's constitutional debt provisions.

³⁴Arkansas, Florida, and New York. Common exceptions to state debt limits are listed below, p. 297.

³⁵Indiana, South Carolina, Virginia, and West Virginia. In Table 32 the limit for these states is designated as "unspecified," but, as noted, the constitutions of this group prohibit any borrowing except for casual deficits or, in South Carolina, "ordinary and current business." Common exceptions to the debt limits, as indicated in Table 32, note e, are included in the constitutions of all of these states except South Carolina.

TABLE 32

CONSTITUTIONAL LIMITS ON INCURRENCE OF DEBT
BY STATE LEGISLATURES, BY STATE, 1954^a

State	Maximum amount ^b	Purpose
Alabama	\$ 300,000	Casual deficits ^c
Arizona	350,000	Unrestricted ^d
Arkansas	No borrowing	.....
California	\$ 300,000	Unrestricted
Colorado	850,000	Casual deficits
	50,000	Public buildings
	2,115,000	Refunding specified debts
Total	<u>\$3,015,000</u>	
Connecticut	Unlimited	.....
Delaware	Unlimited	.....
Florida	No borrowing	.....
Georgia	\$ 500,000	Casual deficits
	<u>3,500,000</u>	School salaries
Total	<u>\$4,000,000</u>	
Idaho	2,000,000	Unrestricted
Illinois	250,000	Casual deficits
Indiana	Unspecified ^e	Casual deficits
Iowa	\$ 250,000	Unrestricted ^d
Kansas	1,000,000	Extraordinary ex- penses; public improvements
Kentucky	500,000	Casual deficits
Louisiana	2,000,000	Casual deficits; emergency
Maine	2,000,000	Unrestricted
Maryland	50,000	Casual deficits
Massachusetts	Unlimited	.....
Michigan	\$ 250,000	Casual deficits
Minnesota	250,000	Extraordinary expenses
Mississippi	Unlimited	.....
Missouri	\$1,000,000	Casual deficits; emergency
Montana	100,000	Unrestricted
Nebraska	100,000	Casual deficits
Nevada	1% of assessed valuation	Unrestricted

TABLE 32--Continued

State	Maximum amount ^b	Purpose
New Hampshire	Unlimited	.....
New Jersey	1% of year's total appropriation	Unrestricted
New Mexico	\$ 200,000	Unrestricted ^d
New York	No borrowing	.....
North Carolina	Unlimited ^f	Casual deficits
North Dakota	\$2,000,000 ^g	Unrestricted
Ohio	750,000	Unrestricted ^d
Oklahoma	500,000	Casual deficits ^c
Oregon	50,000	Unrestricted
Pennsylvania	1,000,000	Casual deficits
Rhode Island	50,000	Unrestricted
South Carolina	Unspecified ^h	Ordinary and current business
South Dakota	\$ 100,000	Casual deficits; extraordinary expenses; public improvements
Tennessee	Unlimited	.....
Texas	\$ 200,000	Casual deficits
Utah	1.5% of assessed valuation	Unrestricted ^d
Vermont	Unlimited	.....
Virginia	Unspecified ^e	Casual deficits
Washington	\$ 400,000	Unrestricted ^d
West Virginia	Unspecified ^e	Casual deficits
Wisconsin	\$ 100,000	Extraordinary expenses
Wyoming	1% of assessed valuation	Unrestricted

^aSource: Adapted from The Tax Foundation, Inc., Constitutional Debt Control in the States (New York: The Tax Foundation, Inc., 1954), p. 14. The notation that Oklahoma debt incurred for casual deficits must be authorized by the Governor was added to the source material.

^bState debt incurred by legislators without popular approval may not exceed these amounts. In forty states

TABLE 32--Continued

these limits do not apply to borrowing in the event of invasion or insurrection or for the defense of the state. For other exceptions, see the textual discussion, p. 297.

^cGovernor may authorize borrowing for this purpose.

^dCasual deficits also specified.

^eNo borrowing except for meeting casual deficits and in other specified circumstances. See note b.

^fFor casual deficits only. Otherwise the limit is two-thirds of the amount by which outstanding debt was reduced in the preceding biennium.

^gBonds in excess must be secured by first mortgage on real estate; \$10,000,000 limit on bonds based on property of state enterprises.

^hNo borrowing except for ordinary and current business.

states the maximum debt which may be incurred without popular approval ranges from \$750,000 to \$4,000,000.³⁶ The debt limit is stated as 1 to 1.5 per cent of assessed valuation in three state constitutions,³⁷ and uniquely in New Jersey's constitution as 1 per cent of the year's total appropriation.

According to Table 32, the amount of debt which the legislatures of the eight remaining states may issue is not limited by organic law.³⁸ Purposes for which legislative borrowing is authorized vary from state to state. Sixteen legislatures are unrestricted, as shown in Table 32. In twenty-four states debt issuance is permitted for meeting casual deficits; and in ten states, including some of the latter, funds may be borrowed without popular approval for such purposes as public improvements and paying extraordinary expenses.

³⁶According to Table 32, Georgia has the highest aggregate debt limit among the states operating under dollar limits. The only state in this group whose constitution does not require popular approval of other indebtedness is Maryland. The Maryland legislature is subject only to procedural restrictions (see Table 33).

³⁷Nevada, Utah, and Wyoming.

³⁸North Carolina is included in this group, but as noted in Table 32 the limit on all legislative borrowing other than that incurred for meeting casual deficits is in North Carolina's constitution two-thirds of the amount by which outstanding debt was reduced during the preceding biennium. According to Table 33, below, North Carolina's constitution requires popular referenda for all other ordinary debt issues.

Certain types of exceptions to these debt restrictions are commonly found in state constitutions.³⁹ In forty states, the limits do not apply to borrowing in the event of invasion or insurrection or for defense of the state.⁴⁰ Refunding of existing indebtedness is exempted from the limitations in fifteen cases.⁴¹ Five states permit borrowing in anticipation of future revenue without regard to the designated restrictions on debt issuance. Miscellaneous exceptions to state debt controls, found in six constitutions, include borrowing for emergencies, the payment of interest on other debt, and projects involving state economic development.⁴²

Doubt of the efficacy and desirability of constitutional limitations on public debt has evoked continuing

³⁹The Tax Foundation, Constitutional Debt Control in the States, p. 23.

⁴⁰The other three states operating under debt restrictions whose constitutions do not contain this type of exception are Arkansas, Missouri, and South Carolina (*ibid.*). The remaining five states have no constitutional debt limitations.

⁴¹Oklahoma is included in this group. The Oklahoma provision applied only to debt outstanding at the end of fiscal 1941, however (Oklahoma, Constitution, Art. X, sec. 23).

⁴²The Tax Foundation, Constitutional Debt Control in the States, p. 23.

research throughout the twentieth century.⁴³ One of the best recent summaries of contrasting views on such controls was prepared by the Tax Foundation in 1954. According to this study, arguments in favor of constitutional debt restrictions include the following:

- (1) Controls place obstacles in the paths of governments bent on extensive borrowing and tend to eliminate some of the worst abuses in borrowing.
- (2) Debt controls protect investors in government obligations.
- (3) Debt controls act as a brake in regulating the effect of government spending on the economy.
- (4) The restrictive content of constitutional debt controls has a beneficial effect upon the credit of the governmental unit and its bond quality.
- (5) The real function of debt controls is to serve as a reminder to the executive and to the legislature of the course that the debt is following, thereby exerting a sobering influence on fiscal authorities as they plan expenditure programs.
- (6) Debt controls force the legislature to seek popular approval of extensive borrowing proposals, making for a more enlightened citizenry.
- (7) Debt controls make the people face up immediately to the cost of proposed expenditure, tending to assure a pay-as-you-go operation of government, as expenditures are met from current tax revenues.
- (8) Debt controls make it difficult or impossible for debt service costs to become so high that essential services have to be curtailed.
- (9) Debt controls exert a psychological restraint on excessive spending for non-essential purposes.
- (10) Debt control has kept down state debt.⁴⁴

⁴³Secrist, passim; Ratchford, American State Debts, pp. 429-45; The Tax Foundation, Constitutional Debt Control in the States, passim.

⁴⁴The Tax Foundation, Constitutional Debt Control in the States, p. 36.

An impressive list of arguments against the use of debt controls was presented as follows:

(1) Debt limits are superficial and mechanical expedients for a situation that calls for a more basic approach.

(2) Debt limits are unable to check unwise borrowing because the limits can be by-passed or raised.

(3) Debt limits are a crude and inflexible control, exerting no influence on borrowing (and thus, on expenditures) until the limit is reached; then they make further borrowing theoretically impossible, regardless of need for essential emergency functions.

(4) Constitutional debt provisions fix a rigid limitation that narrows the choice available to future legislatures faced with changed economic and political conditions.

(5) Since the imposition of debt controls forces governments either to limit expenditures or to tax for current expenditures, a debt ceiling merely forces changes in the methods of raising revenues--from borrowing to increasing taxes.

(6) A debt limit cannot control expenditures that are met by increased taxation; debt limits are ineffective in controlling expenditures when they deal only with the problem of raising money and only indirectly with spending.

(7) Debt control is not an adequate substitute for budget control; it avoids the real problem of finding an effective means of expenditure control; debt limits operate only on total expenditure, where effective at all, without any consideration of the relative importance of different functions financed within the debt limit.

(8) Governments which have not reached their debt limits are encouraged to borrow up to the limit because they may do so within the law.

(9) Constitutional debt controls, difficult to revise, act as an undesirable and unduly restrictive strait-jacket on the budgeting authority.⁴⁵

⁴⁵Ibid., pp. 35-36. Some apparent lack of consistency in this list of contentions is probably attributable to the fact that they were collected from diverse sources.

Examination of these arguments reveals that the validity of most, if not all, of them cannot be tested empirically. However, following a method of analysis utilized by the Tax Foundation in 1954,⁴⁶ the writer tabulated series of data on per capita tax revenue, general expenditure, and total outstanding debt for fiscal 1956, grouping the states by type of constitutional restriction on borrowing. The results are presented in Table 33.

States in Group I of this tabulation include those with the most severe restriction on borrowing--the requirement of constitutional amendments to authorize debt issues in excess of stated limits. Group II consists of states whose constitutions call for popular referenda on such issues. The states with procedural restrictions on legislative borrowing form Group III, and states with no constitutional debt limitations constitute Group IV. The results of this demonstration may not, of course, be taken as proof of any contentions favoring or opposing debt controls. They are based on data for only one fiscal year and take no account of peculiarities of legal doctrine and financial practice.⁴⁷

⁴⁶Ibid., p. 38. The analysis of the Tax Foundation was brief and restricted to tax revenue and debt in fiscal 1953.

⁴⁷The grouping of the states is unrealistic to the extent that legal and financial developments in the various

TABLE 33

PER CAPITA TAX REVENUE, GENERAL EXPENDITURE, AND TOTAL
OUTSTANDING DEBT OF THE FORTY-EIGHT STATES, GROUPED
BY TYPE OF CONSTITUTIONAL RESTRICTION ON
BORROWING, BY STATE AND BY GROUP,
FISCAL 1956^a

Group and state	Per capita tax revenue ^b	Per capita general expenditure ^c	Per capita total debt ^d
Group I ^e			
Alabama	\$ 70.89	\$113.31	\$ 28.28
Arizona	99.05	143.10	5.79
Colorado	93.28	144.06	22.72
Florida	93.68	124.21	45.72
Georgia	80.64	113.37	64.41
Indiana	64.60	118.90	74.22
Louisiana	114.94	187.64	108.28
Michigan	103.52	138.64	72.67
Minnesota	89.17	116.86	26.44
Nebraska	53.75	92.20	5.91
Nevada	124.27	183.30	12.50
North Dakota	78.64	140.57	28.83
Ohio	71.11	103.24	66.04
Oregon	96.03	138.92	101.88
Pennsylvania	64.43	84.98	114.21
South Dakota	70.81	123.41	23
Texas	71.23	96.50	24.40
Utah	86.11	129.08	5.61
West Virginia	72.61	96.32	138.76
Wisconsin	88.95	114.38	1.58
Group ^f	\$ 79.87	\$113.98	\$ 61.37
Group II ^g			
Arkansas	\$ 65.03	\$ 93.23	\$ 62.66
California	118.27	157.65	72.77

TABLE 33--Continued

Group and state	Per capita tax revenue ^b	Per capita general expenditure ^c	Per capita total debt ^d
Group II (Continued)			
Idaho	\$ 77.68	\$131.60	\$ 8.55
Illinois	68.93	79.66	75.17
Iowa	86.25	117.61	10.70
Kansas	77.80	150.63	85.35
Kentucky	56.90	86.98	23.38
Maine	73.36	131.40	131.77
Missouri	61.26	92.14	1.79
Montana	78.31	138.74	72.84
New Jersey	48.50	96.21	166.13
New Mexico	112.56	182.52	60.44
New York	84.68	109.20	121.02
North Carolina	81.15	101.45	64.89
Oklahoma	103.91	166.45	93.64
Rhode Island	74.09	114.51	79.30
South Carolina	77.52	110.48	94.36
Virginia	63.29	93.69	50.31
Washington	129.55	167.12	88.80
Wyoming	106.06	193.62	12.49
Group ^f	\$ 83.65	\$116.49	\$ 81.94
Group III ^h			
Delaware	\$124.96	\$179.16	\$357.17
Maryland	91.21	120.92	179.50
Massachusetts	81.14	127.48	195.77
Group ^f	\$ 86.80	\$127.75	\$198.09

TABLE 33--Continued

Group and state	Per capita tax revenue ^b	Per capita general expenditure ^c	Per capita total debt ^d
Group IV ⁱ			
Connecticut	\$ 93.46	\$133.95	\$217.18
Mississippi	70.72	97.39	40.71
New Hampshire	55.68	111.80	101.15
Tennessee	73.22	89.34	32.24
Vermont	86.52	123.72	17.91
Group ^f	\$ 77.19	\$105.54	\$ 85.04
All states	\$ 81.83	\$115.37	\$ 78.86

^aSources: The Tax Foundation, Inc., Constitutional Debt Control in the States (New York: The Tax Foundation, Inc., 1954), p. 13; U.S., Bureau of the Census, Compendium of State Government Finances, 1956 (Washington: U.S. Government Printing Office, 1957), pp. 9, 24, 41; Appendix Tables 1 and 2. The grouping of the states and the form of the table were adapted from the Tax Foundation, Constitutional Debt Control in the States; the state and national per capita averages were taken from the Bureau of the Census, Compendium of State Government Finances, 1956; and the group per capita averages were computed from the data in Appendix Tables 1 and 2. As noted in Appendix Table 1, population figures were estimated as of July 1, 1955.

^bExcluded taxes for retirement and social insurance purposes, which are classified as insurance trust revenue in the cited source.

^cExcluded liquor stores expenditure and insurance trust expenditure; also debt redemption.

TABLE 33--Continued

^dComputed from debt aggregates which included gross long-term general and nonguaranteed indebtedness, plus outstanding short-term obligations.

^eStates with constitutions requiring constitutional amendments for borrowing beyond stated limits.

^fTotal population of group divided into total tax revenue, general expenditure, or total debt of group.

^gStates with constitutions requiring popular referenda for borrowing beyond stated limits.

^hStates with constitutions imposing only procedural restrictions on legislative borrowing.

ⁱStates with no constitutional restrictions on borrowing.

Moreover, a multiplicity of conditions other than the existence or absence of debt controls influences state fiscal policies. A statistical disadvantage is that Groups III and IV comprise only small amounts of the total population.⁴⁸ However, the tabulation is indicative of a few apparent differences in state fiscal policy growing out of variations in the degree of constitutional restriction on borrowing.

The following inferences, all subject to the stated qualifications, might be drawn from the data in Table 33:

1. States operating under the most rigid type of debt limitation--the Group I states--tax and spend on a per capita basis at a level approximating the national average.⁴⁹ The per capita tax revenue of almost \$80 for this group was only slightly less than that of about \$82 for all states. National per capita general expenditure exceeded \$115, but

states have modified the significance of formal constitutional debt provisions. Oklahoma is certainly a case in point. On the other hand, the data on outstanding debt do include all types of state obligations. See Table 33, note d.

⁴⁸The total estimated population of each group as of July 1, 1955, was as follows: Group I, 70,399,000; Group II, 76,469,000; Group III, 7,907,000; Group IV, 8,670,000 (Appendix Table 1).

⁴⁹It should be observed, however, that these states included over 40 per cent of the total population and that the national averages were to a disproportionate extent affected by the states in this group. See Appendix Table 1.

Group I per capita general expenditure was almost \$114.⁵⁰

2. These same states, on a group basis, have considerably less per capita total debt outstanding than the other groups of states.⁵¹ The per capita debt of approximately \$61 for this group compared to a national per capita debt of almost \$79.

3. As a group, states whose constitutions require popular referenda for debt issuance exceeding stated limits --those in Group II--tax, spend, and carry debt at levels only slightly above the national averages.⁵² As shown in Table 33, per capita tax revenue, general expenditure, and total debt for this group approximated, respectively, \$84, \$116, and \$82.

4. Legislators exempt from popular sanction of their debt measures may subject the state to higher taxes, greater

⁵⁰As noted in Table 33, tax revenue and general expenditure data excluded insurance trust collections and disbursements. General expenditure data excluded debt redemption but, of course, included spending of borrowed funds. The per capita figures, as noted, were derived from the totals shown in Appendix Table 1.

⁵¹Total outstanding debt included all gross long-term obligations and short-term indebtedness, as noted in Table 33. The per capita figures were derived from the totals shown in Appendix Table 2, as also noted.

⁵²The states in this group included over 45 per cent of the total population. See Appendix Table 1.

expenditure, and heavier debt burdens than lawmakers subject to such control. Per capita taxes, expenditure, and outstanding debt of the Group III states approximated, respectively, \$87, \$128, and \$198.

5. The absence of constitutional restrictions on legislative borrowing does not necessarily induce a higher level of state expenditure and lead to heavier taxation and/or much greater indebtedness than are reflected in national averages. The Group IV per capita tax revenue of about \$79 and per capita general expenditure of less than \$106 were both lower than the corresponding averages for all other groups and those for all states. Per capita total debt for this group, approximately \$85, exceeded national per capita total debt by little more than \$6.⁵³

⁵³The findings of the writer corresponded generally to those of studies based on similar methodology. In addition to the work of the Tax Foundation, see Ratchford, American State Debts, pp. 440-44; and Maryland State Planning Commission, Management and Limits of the State Debt (Baltimore: Maryland State Planning Commission, 1953), pp. 6-9. The limitations of these analyses should be emphasized. The most important conclusion which the writer could draw from his cursory study of the subject was that the demonstrable advantages of state debt controls do not outweigh the apparent disadvantages. In view of this conclusion, he felt justified in stressing the major deficiencies of the Oklahoma budget-balancing measure (infra, pp. 323-30).

Nonguaranteed Debt Financing

Strict constitutional limitations on state borrowing were held by Ratchford to be primarily responsible for the development of revenue bond financing in the United States.⁵⁴ They have also been cited as the most important reason for the rapid national growth of nonguaranteed debt during the postwar period.⁵⁵ Using U.S. Bureau of the Census data for fiscal 1956, the writer computed the percentages which nonguaranteed and full faith and credit debt represented of the total outstanding long-term debt of the states, grouped by type of constitutional restriction on borrowing.⁵⁶ The absolute and relative outstanding amounts of the two kinds of long-term obligations are shown in Table 34, by state and by group.⁵⁷

The data in Table 34 indicate that in fiscal 1956 about 51 per cent of the aggregate gross long-term

⁵⁴Ratchford, American State Debts, p. 465.

⁵⁵Allen and Axt, p. 154.

⁵⁶For the Census definition of nonguaranteed debt, see Chapter I, p. 21, note 50. Full faith and credit obligations are described as "long-term debt for which the credit of the State, implying the power of taxation, is unconditionally pledged" (Bureau of the Census, Compendium of State Government Finances, 1957, p. 62).

⁵⁷A similar tabulation was included in The Tax Foundation, Constitutional Debt Control in the States, p. 28.

TABLE 34

GROSS OUTSTANDING NONGUARANTEED AND FULL FAITH AND CREDIT DEBT AS PERCENTAGES OF THE
TOTAL GROSS OUTSTANDING LONG-TERM DEBT OF THE FORTY-EIGHT STATES, GROUPED BY
TYPE OF CONSTITUTIONAL RESTRICTION ON BORROWING, BY STATE AND BY GROUP,
FISCAL 1956^a

Group and state	Nonguaranteed debt (in thousands)	Per cent of long-term debt	Full faith and credit debt (in thousands)	Per cent of long-term debt ^b
Group I ^c				
Alabama	\$ 45,114	51.5	\$ 42,528	48.5
Arizona	5,654	97.0	175	3.0
Colorado	34,421	100.0	.....	0.0
Florida	163,673	100.0	.....	0.0 ^d
Georgia	235,835	100.0	38	.....
Indiana	320,514	99.8	800	0.2
Louisiana	82,770	26.1	234,925	73.9
Michigan	301,248	56.6	231,078	43.4
Minnesota	584	0.7	83,774	99.3
Nebraska	8,236	100.0	.....	0.0
Nevada	.....	0.0	2,938	100.0
North Dakota	4,559	24.6	13,979	75.4
Ohio	353,969	59.9	236,724	40.1
Oregon	105	0.1	171,569	99.9
Pennsylvania	866,318	71.1	351,391	28.9
South Dakota	159	100.0	.....	0.0
Texas	107,277	50.3	106,201	49.7

TABLE 34--Continued

Group and state	Nonguaranteed debt (in thousands)	Per cent of long-term debt	Full faith and credit debt (in thousands)	Per cent of long-term debt ^b
Group I (Continued)				
Utah	\$ 4,475	100.0	\$.....	0.0
West Virginia	140,086	50.9	135,212	49.1
Wisconsin	5,845	100.0	.....	0.0
Group	\$2,680,842	62.5	\$1,611,332	37.5
Group II ^e				
Arkansas	\$ 13,111	11.6	\$ 99,798	88.4
California	119,928	12.7	823,251	87.3
Idaho	3,232	61.8	2,000	38.2
Illinois	445,675	63.7	253,481	36.3
Iowa	5,815	20.4	22,755	79.6
Kansas	175,818	100.0	.....	0.0
Kentucky	70,409	100.0	.....	0.0
Maine	83,386	69.8	35,999	30.2
Missouri	4,531	60.2	3,000	39.8
Montana	38,559	84.2	7,260	15.8
New Jersey	491,192	55.5	393,306	44.5
New Mexico	17,946	37.4	29,985	62.6
New York	766,852	40.6	1,122,043	59.4

TABLE 34--Continued

Group and state	Nonguaranteed debt (in thousands)	Per cent of long-term debt	Full faith and credit debt (in thousands)	Per cent of long-term debt ^b
Group II (Continued)				
North Carolina	\$ 470	0.2	\$ 281,430	99.8
Oklahoma	164,943	79.7	42,006	20.3
Rhode Island	2,974	4.6	61,817	95.4
South Carolina	61,588	28.3	155,692	71.7
Virginia	169,642	94.2	10,411	5.8
Washington	177,040	77.2	52,320	22.8
Wyoming	3,898	100.0	.....	0.0
Group	\$2,817,009	45.3	\$3,396,554	54.7
Group III ^f				
Delaware	\$ 41,372	29.8	\$ 97,424	70.2
Maryland	322,812	65.5	169,744	34.5
Massachusetts	277,509	30.0	647,454	70.0
Group	\$641,693	41.2	\$914,622	58.8

TABLE 34--Continued

Group and state	Nonguaranteed debt (in thousands)	Per cent of long-term debt	Full faith and credit debt (in thousands)	Per cent of long-term debt ^b
Group IV ^a				
Connecticut	\$200,000	62.2	\$ 121,447	37.8
Mississippi	86,765	100.0	.....	0.0
New Hampshire	1,123	2.0	54,812	98.0
Tennessee	2,702	2.4	107,374	97.5
Vermont	.....	0.0	6,626	100.0
Group	\$ 290,590	50.0	\$ 290,259	50.0
All states	\$6,430,134	50.9	\$6,212,767	49.1

^aSources: The Tax Foundation, Inc., Constitutional Debt Control in the States (New York: The Tax Foundation, Inc., 1954), p. 13; U.S., Bureau of the Census, Compendium of State Government Finances, 1956 (Washington: U.S. Government Printing Office, 1957), p. 41. The grouping of the states and the form of the table were adapted from The Tax Foundation, Constitutional Debt Control in the States; the data on debt were taken from the Bureau of the Census, Compendium of State Government Finances, 1956.

^bPercentages may not add to 100.0 because of rounding.

TABLE 34--Continued

^cStates with constitutions requiring constitutional amendments for borrowing beyond stated limits.

^dLess than .1 per cent.

^eStates with constitutions requiring popular referenda for borrowing beyond stated limits.

^fStates with constitutions imposing only procedural restrictions on legislative borrowing.

^gStates with no constitutional restrictions on borrowing.

indebtedness of the forty-eight states consisted of nonguaranteed obligations and that approximately 49 per cent was full faith and credit debt. Group I states collectively owed \$2,680,842,000 of nonguaranteed debt, which represented 62.5 per cent of their total gross long-term indebtedness. Full faith and credit obligations constituted only 37.5 per cent of the long-term debt of these states. All other groups had much smaller relative amounts of nonguaranteed debt outstanding. The nonguaranteed and full faith and credit portions of the total long-term indebtedness of Group II states were, respectively, about 45 and 55 per cent. Group III had the least relative amount of nonguaranteed obligations outstanding in fiscal 1956. For these states the percentages were approximately 41 and 59 per cent, respectively, for nonguaranteed and full faith and credit debt. An equal amount of the two kinds of long-term obligations was owed by the group of states without any constitutional restrictions on borrowing.

It appeared from this limited analysis that rigid constitutional debt controls significantly affected the relative extent of revenue bond financing among the states.⁵⁸

⁵⁸The qualifications noted above, pp. 300 and 305, also apply to the analysis of nonguaranteed debt financing.

Additional related factors, however, have clearly influenced the development of nonguaranteed debt financing in the United States.⁵⁹ Those of apparent importance in Oklahoma financial history merit brief consideration.

The availability of federal matching grants and loans in the 1930's undoubtedly prompted an increase in Oklahoma college revenue bond financing.⁶⁰ Expectation of federal aid probably encouraged the undertaking of the initial Grand River Dam project.⁶¹ On the other hand, federal grants proffered under the Highway Act of 1956 seem to have deterred extension of the state toll road system.⁶²

Another cause of the expansion of nonguaranteed debt in the twentieth century has been described as a recent

⁵⁹Allen and Axt, pp. 154-55.

⁶⁰Supra, Chapter IV, pp. 158-59.

⁶¹Supra, Chapter V, pp. 200-210.

⁶²The Daily Oklahoman, March 3, 1957, p. 1D. According to the paper, "the state has been unable to sell bonds for the other . . . turnpikes, largely because of the new interstate federal program" (ibid.). The Highway Act of 1956 authorizes federal grants covering 90 per cent or more of the cost of state projects approved for the interstate highway system (L. Jay Atkinson and Edmond L. Kanwit, "Economic Aspects of the New Highway Program," Survey of Current Business, XXXVI [December, 1956], 19). See the latter article for a summary of postwar highway financing in the United States.

emphasis of state governments on the construction of income-producing projects. According to the explanation of this factor, facilities like college dormitories, stadiums, and student union buildings were so well adapted to the revenue bond method of financing that the indicated change in the pattern of state expenditure was accompanied by a shift to relatively greater dependence on nonguaranteed debt.⁶³ Regardless of the soundness of the reasoning,⁶⁴ it should be observed that the postwar period of Oklahoma state financing was characterized by such a development.

Legislative appropriations for capital improvements at Oklahoma state institutions for higher education totaled approximately \$44,000,000 over the decade 1946-1956.⁶⁵ During the same period, the schools floated almost \$33,000,000 of self-liquidating obligations to finance the construction,

⁶³Allen and Axt, p. 154.

⁶⁴This argument, it seems to the writer, ignores the possibility that availability of funds in the revenue bond market induced accentuated state expenditure on self-liquidating projects. It should be noted that the Bureau of the Census does not indicate in its annual data the amounts of nonguaranteed and full faith and credit debt outstanding by function.

⁶⁵Biennial Report of the Oklahoma State Regents for Higher Education, 1946-1956. About \$30,000,000 of this amount represented allocations of the proceeds of general bond issues, specifically of the Building Bonds of 1950 and 1955 (ibid.).

modernization, and repair of buildings and other facilities.⁶⁶ Revenue bond issues thus provided more than 40 per cent of the combined appropriated and borrowed funds. In general, the postwar policy has been to utilize appropriations for instructional facilities and to restrict the practice of revenue bond financing to housing and other noninstructional facilities.⁶⁷ The State Regents for Higher Education reported in 1950 that "this policy has worked fairly satisfactorily."⁶⁸

⁶⁶Supra, Chapter IV, Table 15. None of these data included expenditure from "revolving funds" or "current income."

⁶⁷This has been the policy followed in most states. According to a survey conducted by the Council of State Governments, 68 college boards, governing 147 institutions in 31 states, issued bonds for noneducational construction between 1945 and 1952. Only 20 boards, governing 63 institutions in 12 states, floated bonds for instructional or research facilities during the same period (The Council of State Governments, Higher Education in the Forty-Eight States [Chicago: The Council of State Governments, 1952], p. 145).

⁶⁸Oklahoma State Regents for Higher Education, The Oklahoma State System of Higher Education (Oklahoma City: Oklahoma State Regents for Higher Education, 1950), p. 11. However, the Regents disapproved the extent to which college revenue bond financing has been used in Oklahoma. In particular they felt that funds for college utility systems and other "essential facilities" should be provided by the legislature. "Charges to students for capital improvements," the Regents concluded, "are a matter of serious concern to regents, college administrators and legislators" (*ibid.*). This problem is national in scope. According to the staff report of the Commission on Financing Higher Education, "State governments have almost ceased to appropriate plant funds for revenue producing facilities" (John D. Millett, Financing

The expansion of public power facilities,⁶⁹ the development of the state park system,⁷⁰ and the construction of two turn-pikes⁷¹ also reflected the Oklahoma postwar trend toward accentuated public expenditure on self-liquidating projects.

According to Ratchford, state governments in many cases could realize substantial savings of interest by issuing general obligations in lieu of revenue bonds.⁷² The Council of State Governments found in the early 1950's that effective interest rates paid on nonguaranteed debt by state authorities exceeded the rate on general obligations by .5 to 1 per cent.⁷³

Higher Education in the United States [New York: Columbia University Press, 1952], p. 379).

⁶⁹Supra, Chapter V, pp. 211-18.

⁷⁰Supra, Chapter V, pp. 218-23; 240-44.

⁷¹Supra, Chapter V, pp. 223-33; 244-53.

⁷²B. U. Ratchford, "Revenue Bonds and Tax Immunity," National Tax Journal, VII (March, 1954), 43. This article notes the inconsistency of American courts in exempting revenue bonds from state debt limitations and at the same time granting tax immunity to interest earned on them because they represent state obligations (ibid., p. 42). A brief history of tax-exemption for governmental securities in the United States may be found in George E. Lent, The Ownership of Tax-Exempt Securities, 1913-1953 (New York: National Bureau of Economic Research, Inc., 1955), pp. 15-42.

⁷³The Council of State Governments, Public Authorities in the States, p. 72. This finding was qualified by a notation of differing market forces affecting the two types of obligations and a reminder that revenue bonds usually have longer term maturities than general debt issues.

In 1955 the State Treasurer of Oklahoma sold Series 2 of the Building Bonds of 1950 at a coupon rate of 2 per cent,⁷⁴ while the rates on college revenue bonds floated during the year ranged from 3 to 4.75 per cent.⁷⁵ Although this represented the single instance in Oklahoma in which postwar general and self-liquidating bond issues could be compared,⁷⁶ it affords an example of the possible difference in cost between the two methods of borrowing. On the other hand, it must be admitted that the interest-saving feature of general obligation debt is "hardly immutable in the face of repeated use."⁷⁷

The Tax Foundation pointed out in its recent study: "Many state fiscal officers . . . contend that there is no such thing as 'non-guaranteed debt' and that undoubtedly a state would feel obligated to pay off such debt if the pledged revenue were inadequate."⁷⁸ A situation involving

⁷⁴Supra, Chapter III, Table 5.

⁷⁵Supra, Chapter IV, Table 13.

⁷⁶The State Treasurer purchased and held the other Building Bonds of 1950 and 1955. The rate of interest on such obligations was, of course, arbitrarily fixed.

⁷⁷George W. Mitchell, "Economic Aspects of Revenue Bond Financing," The Journal of Finance, X (1955), 229.

⁷⁸Constitutional Debt Control in the States, p. 39.

this aspect of state debt servicing arose recently in Oklahoma. An impending default on state park bonds was averted in 1957 through the provision of a \$500,000 supplemental appropriation from the legislature. The Planning and Resources Board used the appropriation for park operation to free other funds for bond payments.⁷⁹ As the Tax Foundation observed, interest rates available to a state government might be adversely affected by defaults on outstanding non-guaranteed debt.⁸⁰

Oklahoma appears to be among the states which for various reasons are paying higher-than-average interest rates on outstanding indebtedness. The calculated national average interest rate on all state debt outstanding in fiscal 1956

⁷⁹The Daily Oklahoman, June 8, 1957, p. 2. For an account of the legislative debates concerning this financial maneuver, see The Daily Oklahoman, January 15, 1957, p. 1; and Oklahoma City Times, January 15, 1957, p. 13. Senator George Miskovsky, according to the newspaper report, "said the full faith and credit of the state is behind the park bonds, and while the state is not bound by law it must back up the issue" (The Daily Oklahoman, January 15, 1957, p. 1). Senator James A. Rinehart sought to amend the appropriation bill to prohibit direct or indirect bond servicing from state funds, but his effort was defeated. "It apparently was the feeling of senators who opposed Rinehart's motion that the board might use some of the money to retire the bonds, and they didn't want to forbid it doing so" (Oklahoma City Times, January 15, 1957, p. 13).

⁸⁰Constitutional Debt Control in the States, p. 39.

was 2.41 per cent,⁸¹ whereas Oklahoma, as stated above in the discussion of state debt burden, was paying a calculated rate of over 3 per cent on outstanding obligations. Since the coupon rate on the bulk of Oklahoma's general debt was only 2 per cent,⁸² unusually high rates of interest on self-liquidating bonds accounted for the high over-all rate. The effective interest rate on the largest single issue of Oklahoma state debt, the Northeastern Turnpike Bonds, was the second highest rate paid among thirty-three highway bond issues floated in the United States in 1955.⁸³

⁸¹This percentage was computed from data in Bureau of the Census, Compendium of State Government Finances, 1956, p. 7. Total outstanding state debt included a small amount of short-term obligations, on which interest rates are usually lower than those on long-term indebtedness. All of Oklahoma's outstanding debt, on the other hand, consisted of long-term obligations (*ibid.*, p. 41). The calculated interest rate on outstanding debt is a crude measure of interest cost. It reflects the relative size of total contractual payments over a fiscal year, without regard to variations in outstanding debt during the year or discounts or premiums on new debt issues. The calculated rate, nevertheless, indicates on a comprehensive basis the approximate cost of carrying a large debt aggregate, such as a public debt, composed of a multiplicity of obligations issued under varying terms.

⁸²State of Oklahoma, Budget, 1958-1959, p. 184.

⁸³U.S., Bureau of Public Roads, Highway Statistics, 1955 (Washington: U.S. Government Printing Office, 1957), pp. 94-95. A South Carolina state authority paid the highest rate (*ibid.*).

A possible means of obtaining lower rates of interest on future Oklahoma debt issues, other than utilizing the full faith and credit of the government, lies in the establishment of a central bond commission authorized to float a large amount of the state's self-liquidating obligations. The writer believes that the legislature should certainly investigate the possibility of centralizing authority for college revenue bond issuance in a single agency, connected, perhaps, with the Oklahoma State Regents for Higher Education.⁸⁴ Similar authorities are operating successfully in other states.⁸⁵ Meanwhile there is a definite need for periodic, detailed reports on debt issuance and servicing from institutions and agencies utilizing self-liquidating obligations. These reports should be made available for publication by central fiscal officers of the state.⁸⁶

⁸⁴Such an agency might reduce the cost of college borrowing considerably by pledging the combined earnings of all bond-financed educational facilities. The applicability of the Oklahoma "special fund doctrine" to this type of debt financing would, however, apparently be open to question. Moreover, the writer does not wish by this suggestion to dismiss lightly the administrative difficulties posed by such a radical change of policy.

⁸⁵Frank M. McLaury, "State Debt Administration in the United States," Municipal Finance, XXIII (1950), 61-63.

⁸⁶As noted by one student of public finance, "the multiplication of state agencies . . . disperses

A Critique of the Budget-Balancing Amendment

Over a decade ago, the Oklahoma budget-balancing amendment was concisely appraised in the following words:

It is frankly a device to make the legislature provide sufficient revenue for its appropriations on an annual basis, whether or not it is possible to operate that way in view of the flexibility of revenue. It has no bearing on financial planning, having no proposals, or providing no means to increase the effectiveness of the legislature or the executive branch on this score. On the contrary, in depression years, it subjects each administrative agency to operate independently, and within small periods of a month with constant adjustment of its individual plans. At such times, it makes impossible any comprehensive central purchasing plan and the economies of large purchases. It subjects state employees to increasing uncertainties in tenure and salary. It makes flexible adjustment impossible in favor of more essential functions. It threatens loss of some federal funds under various

accountability and reporting responsibility, [and] contains the seeds of further administrative and public confusion" (*ibid.*, 65). The writer was told by a long-time employee in the State Treasurer's office that the Grand River Dam Authority never filed annual reports with that office, as required in the original statute creating the Authority (Oklahoma, Session Laws [1935], c. 70, art. 4, S.B. 395). The records of the Oklahoma Turnpike Authority were not opened for public inspection until newspaper reporters publicized the purchase of a whiskey bar to be installed in the offices of the Authority. The officials of the Authority initially refused to permit an examination of the purchase order for the bar, but unfavorable publicity led eventually to a nominal opening of its records (Oklahoma City Times, October 30, 1956, p. 4). Data on the outstanding debt of these two agencies were first published in a regular state report in 1956 (*supra*, Chapter V, p. 199, note 1), and this information was extremely limited. State fiscal officers do not collect or publish any data on the net indebtedness of agencies and institutions.

matching agreements. It precludes the state cooperating with the national government in anti-cyclical public works programs. If the law successfully coerces the legislature to make initially adequate provision for a given scale of state activity, and if the legislature is readily called together to make up for mistakes or unexpected contingencies, there will not be too much administrative wreckage. The law will be good if it never operates.⁸⁷

Though the validity of much of this criticism remains to be confirmed, other deficiencies of the measure have become apparent in the last few years.

Since the adoption of the budget-balancing amendment, the issuance of nonguaranteed debt has become the most important method of circumventing the state debt limitation.⁸⁸ As noted above in the discussion of aggregate borrowing and indebtedness, over 70 per cent of all long-term debt issued

⁸⁷Pray, pp. 26-27.

⁸⁸Until 1951, municipalities in Oklahoma were effectively prohibited by a state Supreme Court decision (Zachary et al. v. City of Wagoner, 146 Okl. 268, 292 P. 345 [1930]) from engaging in revenue bond financing. However, a public trust device now in use permits issuance of nonguaranteed obligations which are not subject to constitutional limitations on local debt (supra, Chapter V, pp. 233; 236-37). The writer agrees with a prominent student of Oklahoma finance that comprehensive public debt studies should cover both state and local indebtedness (interview with H. V. Thornton, Director, Bureau of Government Research, University of Oklahoma, Norman, Okla., May 2, 1955). However, the whole subject of local debt financing was avoided throughout this study because of its restricted scope. Local indebtedness is apparently an area of research too long neglected by students of Oklahoma public finance.

in Oklahoma's financial history was floated subsequent to the adoption of the budget-balancing measure. And, as indicated, the bulk of this debt consisted of self-liquidating or nonguaranteed obligations. The practice of nonguaranteed debt financing in Oklahoma has been frequently criticized in recent years, but usually without regard to the broader problems of over-all state debt policy.⁸⁹ Evasion of the constitutional limit through nonguaranteed debt issuance--an apparently costly procedure which manifestly weakens the control of aggregate indebtedness--reflects a major disadvantage of formal restrictions requiring such a subterfuge.

There are other indications of the inefficacy of Oklahoma's budget-balancing amendment. Members of the legislature recently charged that administrative heads of state

⁸⁹Former Governor Johnston Murray advised the 1955 legislature to enact a code severely limiting the issuance of nonguaranteed obligations. "If permitted to be exercised promiscuously," he warned, "the privilege and use of the self-liquidating bond can result in devilish consequences" (The Daily Oklahoman, December 16, 1956, p. 8B). Revenue bond financing has also been condemned by several individual legislators speaking privately of the practice (ibid.). For the dissenting opinions on revenue bond applications approved by the Supreme Court in the postwar period, see Chapters IV and V, above, passim. The desirability of a rigid state debt limit was assumed in all of this criticism. A brief critical comment representing a broader point of view on nonguaranteed debt financing may be found in Thornton, Rushing, and Wood, pp. 93-94.

agencies and institutions are routinely engaging in a type of deficit spending financed out of supplemental appropriations.⁹⁰ The State Highway Department has allegedly been operating at a deficit over much of the period since 1952.⁹¹ A former state Budget Director, shortly before resigning his position, complained that he was unable to force compliance with the spirit of the act vitalizing the budget-balancing amendment.⁹²

Through the device for appropriating anticipated surpluses of general revenue,⁹³ the legislature itself has openly flouted the obvious intention of the budget-balancing measure. Legislative appropriations in the session of 1957 exceeded estimated revenue by almost \$16,000,000.⁹⁴ For the first

⁹⁰In the session of 1957, the Senate proposed a resolution making administrative heads personally liable to vendors for contractual obligations incurred in excess of available cash funds (The Daily Oklahoman, March 27, 1957, p. 2). This type of financial practice was denounced by Senator James A. Rinehart in a public address of March 28, 1957. "Worst offenders, he declared, are hospitals, the penitentiary and other departments which care for 'suffering humanity'" (The Daily Oklahoman, March 29, 1957, p. 11).

⁹¹Oklahoma City Times, September 3, 1957, p. 22. State Highway Director C. A. Stoldt has denied this accusation, explaining that highway contracts cannot be consummated in the absence of available funds (The Daily Oklahoman, May 10, 1958, p. 8).

⁹²Allen, p. 68.

⁹³Supra, Chapter III, pp. 107-08.

⁹⁴Oklahoma City Times, February 15, 1958, p. 12.

time since its adoption, it appeared in 1958 that the enforcement of the amendment would seriously affect the financing of state expenditure.⁹⁵

Continuing criticism of the budget-balancing amendment was implied in a recent survey of the problems of Oklahoma government. According to that study, the measure "imposes severe restraints on governing processes under conditions which may demand the expansion rather than a curtailment of public services."⁹⁶ The survey questioned the propriety of the amendment in empowering the executive branch of the state government, rather than the legislature, to authorize short-term debt issuance.⁹⁷ It also noted the oddity of the situation created by the effective nullification of Oklahoma's constitutional provision for debt referenda.⁹⁸ As the study explained:

⁹⁵The Daily Oklahoman, May 18, 1958, p. 1A. In the first and apparently only instance of its kind prior to 1958, compliance with the budget-balancing act delayed the payment of Confederate pensions in fiscal 1942 (Pray, p. 21).

⁹⁶Thornton, Rushing, and Wood, p. 90.

⁹⁷Ibid., pp. 91-92. The description of these provisions is misleading, however. For a more complete account of them, see Chapter III, above, pp. 88-89.

⁹⁸Oklahoma, Constitution, Art. X, sec. 25. This situation is described above, Chapter III, p. 110, note 74.

By the Constitution the voters are endowed with the right to create State debts, but they are obliged to amend the Constitution in order to exercise this constitutional right. Piece-made amendment, particularly of constitutions incorporating statutory details, frequently ends in absurdity.⁹⁹

A seemingly more realistic type of state debt limitation was suggested by Ratchford in 1941. His proposal called for limiting net outstanding indebtedness to twice the average annual revenue collected during the preceding five years. A maximum of half this amount could be incurred by the legislature without popular approval, but the flotation of additional obligations would require the consent of the electorate in a referendum. Ratchford recommended special limits for emergency borrowing and for the issuance of short-term obligations secured by anticipated tax revenue.¹⁰⁰

Among the advantages which Ratchford claimed for his scheme were flexibility and gradualness of change in the debt

⁹⁹Thornton, Rushing, and Wood, p. 93. As long ago as 1935, the Brookings Institution recommended the amendment of Section 25 to abolish the requirement of direct taxation for retiring popularly approved debt (The Brookings Institution, Report on a Survey of Organization and Administration of Oklahoma, p. 273).

¹⁰⁰Ratchford, American State Debts, pp. 594-97. For an earlier but more detailed version of this proposed system of debt control, see B. U. Ratchford, "A Formula for Limiting State and Local Debts," Quarterly Journal of Economics, LI (1936), 71-89.

limit over periods of fluctuating revenue. Ratchford also believed that such provisions could be simply stated and easily interpreted, though he thought them "strong enough to keep the debt within safe bounds."¹⁰¹ In the absence of more extensive research, the writer remains unwilling to endorse the principle of constitutional controls on state debt financing.¹⁰² Nevertheless, the type of restriction outlined by Ratchford would, in the writer's opinion, be superior to Oklahoma's limitation.

The Oklahoma budget-balancing measure does not establish any logical or practical relation between general debt issuance, revenue, and expenditure. The debt limit is related

¹⁰¹Ibid., pp. 595-96.

¹⁰²Most of the limitations prevailing at present in the United States appear to the writer to reflect an abhorrence of public debt characteristic of mid-nineteenth century state fiscal policy (see Secrist, pp. 21-31). But as Harold M. Groves pointed out a few years ago, modern debt financing is in many cases actually "pay-as-you-go" financing of important public facilities (see Mitchell, The Journal of Finance, X [1955], 227-28). The apparent alternative to borrowing for the expansion of governmental services--and constitutional limits undoubtedly hamper the use of state credit--is a postponement of the expenditure in many states. Deductive logic suggests that the cost of borrowing under certain conditions may be exceeded by the aggregate increase in income induced by expenditure of the funds (Ratchford, American State Debts, pp. 547-50). However, the dearth of empirical work on the economic effects of state debt financing dictates a reservation of judgment on this point.

to revenue only indirectly through the formal restraint on state expenditure. It is stated as an absolute maximum of \$500,000 a year to finance valid appropriations for which revenue is not available. Appropriations, in turn, are limited in the aggregate only by the official estimate of forthcoming revenue.¹⁰³ As an arbitrary figure chosen in a period of restricted revenue and expenditure, the Oklahoma debt limit has been rendered obsolete by the rapid postwar expansion of state fiscal operations.¹⁰⁴

Regardless of possible changes in the formal limit on general debt issuance, the Oklahoma legislature and the officials of the state should keep under consideration the servicing requirements on all forms of outstanding

¹⁰³Oklahoma, Constitution, Art. X, sec. 23. The estimate of revenue may not exceed the average amount of actual collections over the three preceding years.

¹⁰⁴See Moeller, pp. 66-67; and Table 26, above. The report of the 1956 Southern Assembly, a regional conference on state government, urged substantial increases in constitutional debt limits or abolition of all restrictions on the volume of general borrowing (L. Vaughan Howard and John H. Fenton, State Governments in the South: Functions and Problems [New Orleans: The Southern Assembly of Tulane University, 1956], p. 63). In both 1956 and 1957, the Economic Report of the President recommended a review of legal restrictions on state and local debt financing (Economic Report of the President, January, 1956 [Washington: U. S. Government Printing Office, 1956], p. 84; Economic Report of the President, January, 1957 [Washington: U.S. Government Printing Office, 1957], p. 49).

indebtedness. Over the years these payments will absorb a substantial volume of income in the form of taxes and "user charges" on bond-financed facilities.¹⁰⁵ The data in Table 35, reported by the U.S. Bureau of the Census, show the annual principal amounts of all state debt outstanding in fiscal 1957 which were scheduled to mature between 1957 and 1970.¹⁰⁶ According to Table 35, aggregate annual scheduled maturities over the period will increase from about \$3,000,000 in the next few years to almost \$6,000,000 in the late 1960's. Data like these could be derived from primary sources and greatly improved by the addition of a series on estimated redemptions prior to maturity and a series on estimated interest payments. An extensive tabulation of servicing requirements, classified by type and purpose of indebtedness, would undoubtedly promote more efficient debt management and control.

¹⁰⁵"Debt charges," according to a well-known national study, "may seriously impair the ability of states and localities to support basic services" (Hansen and Perloff, p. 196). The servicing requirements on a large volume of indebtedness held mainly outside the state could conceivably disrupt a state budget, though such a possibility seems remote in Oklahoma's case. The point is that effective debt control requires comprehensive data on debt operations.

¹⁰⁶Prior to the report for 1957, the Bureau of the Census did not include a tabulation of scheduled debt maturities in its annual Compendium of State Government Finances.

TABLE 35

SCHEDULED MATURITIES OF TOTAL GROSS LONG-TERM DEBT OF THE
STATE OF OKLAHOMA OUTSTANDING IN FISCAL 1957,
ANNUALLY, 1957-1970^a
(in thousands)

Year	Scheduled maturities ^b
1957 ^c	\$ 2,445
1958	3,119
1959	3,391
1960	3,528
1961	3,593
1962	4,009
1963	4,207
1964	4,350
1965	4,564
1966	4,696
1967	5,432
1968	5,560
1969	5,776
1970 and after	<u>150,707</u>
Total	\$205,377

^aSource: U.S., Bureau of the Census, Compendium of State Government Finances, 1957 (Washington: U.S. Government Printing Office, 1958), p. 42.

^bThese figures make no allowance for possible redemption of some outstanding debt prior to ultimate maturity dates.

^cFrom June 30 through December 31.

Comprehensive reports on all sinking fund accounts would enhance the usefulness of these data.¹⁰⁷

¹⁰⁷As noted in Chapter I, limitations on the scope of this study precluded any extensive treatment of state debt management. The technical problems of debt management--including those originating in constitutional and statutory restrictions--appear to the writer to merit a completely separate investigation. A thorough review of local debt management in Oklahoma would probably require another study.

CHAPTER VII

SUMMARY AND CONCLUSIONS

From 1907 to 1941, Oklahoma operated under formal constitutional provisions which limited outstanding state indebtedness not approved by the electorate to a maximum of \$400,000. During that time, no debt measures were authorized by the voters; on the contrary, they rejected five proposals involving the issuance of state obligations. However, thirty long-term debt issues were floated over the period by state fiscal officers, the institutions for higher education, and the Grand River Dam Authority, under statutes not subject to popular sanction.

These issues were validated under two doctrines enunciated by the Oklahoma Supreme Court in a series of cases decided between 1908 and 1940. Early opinions established the ruling that funding operations were exempt from constitutional restrictions on state indebtedness. The Court held throughout the period that extending the maturity of existing

short-term obligations by the issuance of funding bonds and long-term notes did not represent the creation of indebtedness. A restricted version of the "special fund doctrine"--developed previously in other jurisdictions--was applied in the 1930's to the self-liquidating bonds of state educational institutions and the Grand River Dam Authority. According to this doctrine, the flotation of obligations payable from the earnings of bond-financed facilities did not violate the constitutional debt provisions.

The state debt limit was revised in 1941 to prohibit the issuance of more than \$500,000 of obligations during any fiscal year without the approval of voters. The new measure, known as the "budget-balancing amendment," also invalidated legislative appropriations in excess of average annual revenue collections over the three preceding years. A ruling of the Attorney General in 1949 effectively nullified Oklahoma's constitutional provision for popular state debt referenda. Under this ruling, separate constitutional amendments are apparently necessary to authorize bond issues exceeding the debt limit. The referendum provision requires the imposition of direct taxes to retire such issues, and the state has been prohibited since 1933 from levying ad valorem taxes.

Following the adoption of the budget-balancing

measure, two general issues of state building bonds were approved by the electorate in separate constitutional amendments. The bulk of these obligations, though, is held by the State Treasurer as an investment of state funds. The issuance of self-liquidating bonds has become the most important method of circumventing the budget-balancing amendment of 1941. In a series of cases decided after its adoption, the Oklahoma Supreme Court reaffirmed and expanded the special fund doctrine permitting revenue bond financing by state institutions and agencies. The Court has also approved legislation of 1951 and 1953 which provided for the flotation of nonguaranteed state and local debt through express public trusts. Up to the present, however, the public trust device has been utilized only by local units of government. The absence of any comprehensive data on local debt financing, it should be noted, severely limits the evaluation of public debt policy in Oklahoma.

Between 1907 and 1956 the volume of original long-term state debt issued by state officials, educational institutions, and independent agencies totaled almost \$290,000,000. General obligations constituted 40 per cent of this amount, and 60 per cent consisted of self-liquidating bonds. By function, funding accounted for almost 22 per cent

of the original long-term debt issued up to 1956; public building obligations represented about 31 per cent of the total flotations; and approximately 11 per cent of the debt was incurred by the Grand River Dam Authority and the Planning and Resources Board for state resource development. Toll road bonds marketed between 1950 and 1954 by the Oklahoma Turnpike Authority made up the largest single portion of the total volume of state debt issues. These obligations constituted the remaining 37 per cent of the original long-term debt issued over the half-century of statehood. State debt refunding operations were all carried out in the post-World War II period and totaled about \$39,000,000. These issues were limited to the refinancing of self-liquidating debt.

Several state bond issues proposed during the postwar decade, including both general and self-liquidating issues, were defeated at the polls, invalidated by the Oklahoma Supreme Court, or rejected by investors in the securities market. Nevertheless, the bonds floated subsequent to the effective date of the budget-balancing amendment constituted over 70 per cent of the original long-term state debt issued in Oklahoma's financial history. About four-fifths of the debt incurred after 1941 consisted of self-liquidating, or

nonguaranteed, obligations. In Oklahoma, as in many states, nonguaranteed debt financing has proved relatively costly and difficult to control. Comprehensive periodic reports from the institutions, agencies, and public trusts engaging in nonguaranteed debt financing are not required under Oklahoma law.

Cursory examination of the efficacy of constitutional debt restrictions in the United States reveals that they are of doubtful value in controlling state fiscal policy. Oklahoma's inflexible limit of \$500,000 bears no logical relation to revenue and expenditure and has been rendered obsolete by the postwar expansion of state fiscal operations. The well-established practice of nonguaranteed debt financing represents a seemingly necessary but undesirable method of circumventing the limitation. There are indications that the Oklahoma restriction on general debt financing is routinely evaded in other ways, such as utilizing supplemental appropriations to cover anticipated deficits.

The relative importance of state debt financing in the economy of Oklahoma has varied from one period to another. The volume of debt financing bore little relation to changes in population or expenditure until the late 1930's. Aggregate gross outstanding long-term state debt rose to more than \$6,000,000 in the first decade of statehood and then declined

to a minimum of about \$1,400,000 in fiscal 1932. During the depression decade large deficits developed in the General Revenue Fund, initially because of declining revenue and later because of sharply increased expenditure. The funding of this short-term indebtedness and the issuance of record amounts of self-liquidating bonds raised total gross long-term state indebtedness to almost \$53,000,000 in fiscal 1942. Population remained relatively stable during the 1940's and 1950's, while revenue and expenditure rose substantially over the period. Gross outstanding state debt was reduced to a postwar minimum of approximately \$38,500,000 in fiscal 1948, but it increased rapidly in succeeding years and exceeded \$204,000,000 in fiscal 1956. At that time aggregate net indebtedness totaled about \$200,000,000.

Per capita state indebtedness, measured in both current and constant dollars, declined after the first decade of statehood to a minimum amount in 1932. It increased steadily from the early part of the depression until the mid-1940's. Following a slight decline in the immediate postwar years, per capita debt rose to its highest point in state financial history in fiscal 1956. Only thirteen states had a greater per capita total indebtedness in 1956.

An increase in the relative burden of state indebted-

ness between 1932 and 1956 was indicated by the differential rate of growth of debt and state personal income. Over that period as a whole, total and per capita indebtedness increased much faster than total and per capita personal income. Interest payments on state debt exceeded \$6,000,000 in fiscal 1956. Though they represented less than 2 per cent of total state expenditure in fiscal 1956, the state was paying a calculated interest rate well above the national average.

The cost of borrowing in Oklahoma might be reduced considerably through more extensive use of the full faith and credit of the state. Otherwise, the establishment of a central bond commission or financing authority offers a possible means of obtaining lower interest rates on future self-liquidating issues, particularly college revenue bond flotations. The technical problems of debt management appear to merit extensive study, however. In the meantime, the development of comprehensive series of data on total debt service requirements would contribute to more efficient management and more effective control of state indebtedness.

The following recommendations are based on the findings of this study:

1. The legislature should require the submission of regular, detailed reports on debt operations from agencies

and institutions engaging in nonguaranteed debt financing. This requirement should also apply to the corporate affiliates of state colleges and universities and to the trustees of public trusts.

2. These data should be published in summary form by the State Treasurer and in the budget document, along with similar data on general indebtedness. For the use of the legislature and state fiscal officers, comprehensive series on future debt service requirements should be developed from such reports.

3. The legislature should investigate the advantages of empowering a central bond commission or similar agency to issue all college revenue bonds and possibly other self-liquidating state obligations.

4. The constitutional provision for state debt referenda should be amended to abolish the requirement for direct taxation as the exclusive means of servicing popularly approved bond issues.

5. The budget-balancing amendment should be revised to permit the issuance of a greater volume of general debt without the approval of the electorate.

6. A comprehensive study of local debt financing in Oklahoma should be initiated in the immediate future.

7. The technical problems of state and local debt management should be investigated in a thorough review of current public debt financing in Oklahoma.

In broad perspective, it is apparent that the problems of debt policy derive their economic significance in the context of more profound questions involving public revenue and expenditure. In this sense, the development of a desirable code of policy for debt financing in Oklahoma is contingent upon the accumulation of a vast amount of data on the state fiscal system. The need for research in this area increases proportionately with the complexity of modern democratic government, in which good fiscal policy is a continuous process of adjusting financial practice to changing social and economic conditions.

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APPENDIX

TABLE 1

POPULATION, TAX REVENUE, AND GENERAL EXPENDITURE OF THE
FORTY-EIGHT STATES, GROUPED BY TYPE OF CONSTITUTIONAL
RESTRICTION ON BORROWING, BY STATE AND BY GROUP,
FISCAL 1956^a

(in thousands)

Group and state	Population ^b	Tax revenue ^c	General expenditure ^d
Group I ^e			
Alabama	3,110	\$ 220,461	\$ 352,407
Arizona	1,007	99,745	144,105
Colorado	1,547	144,298	222,866
Florida	3,580	335,376	444,661
Georgia	3,662	295,316	415,155
Indiana	4,329	279,659	514,739
Louisiana	2,934	337,236	550,538
Michigan	7,326	758,369	1,015,650
Minnesota	3,190	284,450	372,799
Nebraska	1,394	74,930	128,521
Nevada	235	29,203	43,076
North Dakota	643	50,563	90,385
Ohio	8,945	636,063	923,479
Oregon	1,685	161,812	234,079
Pennsylvania	10,898	702,144	926,112
South Dakota	683	48,363	84,286
Texas	8,748	623,126	844,151
Utah	797	68,627	102,874
West Virginia	1,984	144,064	191,107
Wisconsin	3,702	329,301	423,438
Group	70,399	\$5,623,106	\$8,024,428
Group II ^f			
Arkansas	1,802	\$ 117,183	\$ 167,997
California	12,961	1,532,872	2,043,353
Idaho	612	47,539	80,542

TABLE 1--Continued

Group and state	Population ^b	Tax revenue ^c	General expenditure ^d
Group II (Continued)			
Illinois	9,301	\$ 641,143	\$ 740,892
Iowa	2,671	230,379	314,126
Kansas	2,060	160,266	310,304
Kentucky	3,011	171,319	261,894
Maine	906	66,465	119,045
Missouri	4,201	257,364	387,066
Montana	629	49,255	87,266
New Jersey	5,324	258,190	512,218
New Mexico	793	89,264	144,736
New York	16,021	1,356,611	1,749,587
North Carolina	4,344	352,531	440,711
Oklahoma	2,210	229,642	367,857
Rhode Island	817	60,529	93,552
South Carolina	2,308	178,915	254,996
Virginia	3,579	226,507	335,318
Washington	2,607	337,749	435,671
Wyoming	312	33,090	60,408
Group	76,469	\$6,396,813	\$8,907,539
Group III ^g			
Delaware	390	\$ 48,735	\$ 69,874
Maryland	2,744	250,270	331,799
Massachusetts	4,773	387,303	608,457
Group	7,907	\$ 686,308	\$1,010,130
Group IV ^h			
Connecticut	2,200	\$ 205,616	\$ 294,692
Mississippi	2,133	150,845	207,730
New Hampshire	553	30,790	61,827

TABLE 1--Continued

Group and state	Population ^b	Tax revenue ^c	General expenditure ^d
Group IV (Continued)			
Tennessee	3,414	\$ 249,959	\$ 304,995
Vermont	370	32,014	45,775
Group	8,670	\$ 669,224	\$ 915,019
All states	163,445 ⁱ	\$13,375,451	\$18,857,116

^aSources: The Tax Foundation, Inc., Constitutional Debt Control in the States (New York: The Tax Foundation, Inc., 1954), p. 13; U.S., Bureau of the Census, Compendium of State Government Finances, 1956 (Washington: U.S. Government Printing Office, 1957), pp. 11, 22, 55. The grouping of the states and the form of the table were adapted from the former source; data on population, tax revenue, and general expenditure were taken from the latter source.

^bJuly 1, 1955.

^cExcluded taxes for retirement and social insurance purposes, which are classified as insurance trust revenue in the cited source.

^dExcluded liquor stores expenditure and insurance trust expenditure; also debt redemption.

^eStates with constitutions requiring constitutional amendments for borrowing beyond stated limits.

^fStates with constitutions requiring popular referendum for borrowing beyond stated limits.

^gStates with constitutions imposing only procedural restrictions on legislative borrowing.

TABLE 1--Continued

^hStates with no constitutional restrictions on borrowing.

ⁱThe total shown in the source was 163,446 (Bureau of the Census, Compendium of State Government Finances, 1956, p. 55). Since the state population figures checked with the source cited in the Compendium and the total was derived from unrounded data, it apparently represented an error. The discrepancy was not large enough to affect national per capita averages, however.

TABLE 2

OUTSTANDING GROSS LONG-TERM, SHORT-TERM, AND TOTAL DEBT
OF THE FORTY-EIGHT STATES, GROUPED BY TYPE OF
CONSTITUTIONAL RESTRICTION ON BORROWING,
BY STATE AND BY GROUP, FISCAL 1956^a

(in thousands)

Group and state	Long- term debt ^b	Short- term debt	Total debt
Group I ^c			
Alabama	\$ 87,642	\$ 300	\$ 87,942
Arizona	5,829	.....	5,829
Colorado	34,421	728	35,149
Florida	163,673	.....	163,673
Georgia	235,873	.....	235,873
Indiana	321,314	.....	321,314
Louisiana	317,695	.....	317,695
Michigan	532,326	46	532,372
Minnesota	84,358	.....	84,358
Nebraska	8,236	.....	8,236
Nevada	2,938	.....	2,938
North Dakota	18,538	.....	18,538
Ohio	590,693	.....	590,693
Oregon	171,674	.....	171,674
Pennsylvania	1,217,709	27,000	1,244,709
South Dakota	159	.....	159
Texas	213,478	.....	213,478
Utah	4,475	.....	4,475
West Virginia	275,298	.....	275,298
Wisconsin	5,845	.....	5,845
Group	\$4,292,174	\$ 28,074	\$4,320,248
Group II ^d			
Arkansas	\$ 112,909	\$.....	\$ 112,909
California	943,179	.....	943,179
Idaho	5,232	.....	5,232
Illinois	699,156	.....	699,156

TABLE 2--Continued

Group and state	Long- term debt ^b	Short- term debt	Total debt
Group II (Continued)			
Iowa	\$ 28,570	\$.....	\$ 28,570
Kansas	175,818	.....	175,818
Kentucky	70,409	.....	70,409
Maine	119,385	.....	119,385
Missouri	7,531	.....	7,531
Montana	45,819	.....	45,819
New Jersey	884,498	.....	884,498
New Mexico	47,931	.....	47,931
New York	1,888,895	50,000	1,938,895
North Carolina	281,900	.....	281,900
Oklahoma	206,949	.....	206,949
Rhode Island	64,791	.....	64,791
South Carolina	217,280	500	217,780
Virginia	180,053	.....	180,053
Washington	229,360	2,147	231,507
Wyoming	3,898	.....	3,898
Group	\$6,213,563	\$ 52,647	\$6,266,210
Group III ^e			
Delaware	\$ 138,796	\$ 500	\$ 139,296
Maryland	492,556	.....	492,556
Massachusetts	924,963	9,450	934,413
Group	\$1,556,315	\$ 9,950	\$1,566,265
Group IV ^f			
Connecticut	\$ 321,447	\$156,350	\$ 477,797
Mississippi	86,765	72	86,837
New Hampshire	55,935	.....	55,935

TABLE 2--Continued

Group and state	Long- term debt ^b	Short- term debt	Total debt
Group IV (Continued)			
Tennessee	\$ 110,076	\$.....	\$ 110,076
Vermont	6,626	.....	6,626
Group	\$ 580,849	\$156,422	\$ 737,271
All states	\$12,642,901	\$247,093	\$12,889,994

^aSources: The Tax Foundation, Inc., Constitutional Debt Control in the States (New York: The Tax Foundation, Inc., 1954), p. 13; U.S., Bureau of the Census, Compendium of State Government Finances, 1956 (Washington: U.S. Government Printing Office, 1957), p. 41. The grouping of the states and the form of the table were adapted from the former source; the data on debt were taken from the latter source.

^bNonguaranteed and full faith and credit debt.

^cStates with constitutions requiring constitutional amendments for borrowing beyond stated limits.

^dStates with constitutions requiring popular referendum for borrowing beyond stated limits.

^eStates with constitutions imposing only procedural restrictions on legislative borrowing.

^fStates with no constitutional restrictions on borrowing.